



# Doing Business In Vietnam: A Country Commercial Guide for U.S. Companies

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# Chapter 1: Doing Business In Vietnam

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## Market Overview

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Vietnam has one of the fastest growing economies in the world. Annual GDP growth in recent years has been between 7-8 percent, with industrial production expanding at double that figure. This strong economic performance, combined with market openings achieved as a result of the entry into force of the U.S.-Vietnam Bilateral Trade Agreement (BTA) in 2001, has transformed the bilateral commercial relationship between the United States and Vietnam and greatly expanded business opportunities for American firms.

The impact of the Bilateral Trade Agreement (BTA) has been dramatic. Since coming into force on December 10, 2001, the BTA has helped generate a four-fold increase in bilateral trade flows between the two nations. In 2003, American exports to Vietnam increased by 128% to \$1.3 billion, while Vietnamese exports to the United States almost doubled, reaching \$4.6 billion. In 2004, U.S. export growth leveled off owing to a reduction in deliveries of aircraft, which in the previous year had accounted for over 50% of all American exports to Vietnam. Excluding aircraft from the U.S. trade figures, American export growth to Vietnam remains impressive, increasing by 30% in 2004. Vietnamese export growth also moderated last year, but still increased by 16 percent.

A major portion of the commercial opportunities for American firms in Vietnam have been in the infrastructure sectors, as these are priority development areas for Vietnam. Aviation, telecommunications and information technology, oil and gas exploration and power generation will likely to continue to offer the most promising opportunities for U.S. companies over the next few years. However, as income levels rise, particularly in the larger cities, opportunities in the consumer and services sectors will broaden as well.

## Market Challenges

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Despite the rapid expansion of the U.S. commercial presence in Vietnam in recent years, Vietnam remains a difficult place to do business. The evolving nature of regulatory regimes and commercial law, combined with overlapping jurisdiction among government ministries, often result in a lack of transparency, uniformity and consistency in government policies and decisions on commercial projects. Many firms operating in Vietnam, foreign and domestic, find corruption to be a major source of difficulty.

Strong economic growth, ongoing reform and a large population (82 million, over half under 30 years of age) have combined to create a dynamic commercial environment in Vietnam. While sales of heavy equipment and sophisticated technologies associated with implementation of major infrastructure projects continues to be the main source of commercial activity for U.S. firms in Vietnam, opportunities in the consumer and services sectors are also beginning to emerge.

Each year the United States Commercial Service, which has offices in Hanoi and Ho Chi Minh City, identifies approximately ten industry sectors, which are considered “best prospects” for American firms for the coming next year. They are rank-ordered based upon real growth potential. This year’s “best prospects” are: 1) Computer Hardware and Services; 2) Telecommunication Equipment and Services; 3) Oil and Gas Machinery and Services; 4) Power Generation, Transmission and Distribution; 5) Airport and Ground Support Equipment; 6) Medical Equipment; 7) Safety and Security Equipment; 8) Education and Training; 9) Environmental Technologies; and 10) Packaging Equipment.

The U.S. Foreign Agricultural Service in Vietnam has identified eight agricultural commodities/products as “Best Prospects” for American exporters for the coming year. These include: 1) Soybean Meal; 2) Bulk Cotton; 3) Wheat and Wheat Flour; 4) Livestock Genetics; 5) Fresh Fruit and Vegetables; 6) Snack Foods, Canned Foods; and 7) Forest Products, Hardwood Lumber; and 8) Beef and Poultry Meats.

American companies interested in doing business in Vietnam may do so indirectly through the appointment of an agent or distributor in Vietnam. (Note: U.S. companies new to Vietnam should conduct sufficient due diligence on potential local agents/distributors to ensure that specific permits, facilities, manpower and capital are available.) U.S. firms seeking a direct presence in Vietnam can establish a commercial operation utilizing the following options: 1) a representative office license; 2) a branch license; or 3) a foreign investment project license under Vietnam's revised Foreign Investment Law. In addition, U.S. companies interested in doing business in Vietnam should contact the U.S. & Foreign Commercial Service or Foreign Agriculture Service in Hanoi and Ho Chi Minh City. Contact information is located in Ch.11 U.S. and Vietnam Contacts.

American business executives should be aware that Vietnam’s legal and regulatory environment is undergoing profound change. Ongoing efforts to implement BTA commitments and to lay the legal and regulatory foundation for WTO accession will bring about significant changes in Vietnamese law affecting an array of commercial issues. In 2005, Vietnam’s National Assembly is expected to finalize a number of important legislative initiatives. Among the laws and ordinances expected to be passed in May 2005 are a full revision of the Commercial Law, intended to provide a modern and simplified legal framework for commercial transactions, as well as a broad legal framework for liberalizing distribution services in Vietnam. A new Civil Code, addressing

contract enforcement, secured transactions and property rights is also slated for passage in the spring of 2005. Amendments to the Customs Law of 2000 are also anticipated, including provisions intended to modernize customs procedures and implement greater use of technology in the customs clearance process.

A second series of legal changes is likely to follow in late 2005 or 2006. These should include a new Intellectual Property Rights Law which will be intended to bring Vietnam into compliance with BTA obligations and the WTO agreement on Trade Related Intellectual Property; a new Law on Electronic Transactions to form the legal basis for how digital information is used in commercial transactions; amendments to the Law on Import and Export Duties addressing procedures for collecting import tariffs and taxes; revisions of the Enterprise Law intended to unify and streamline regulations for registration and corporate governance of private, state-owned and foreign-owned companies; and a new Law on Technology Transfer intended to modernize an outdated legal and policy framework for technology transfer.

The items above are only a partial list of the legislative initiatives currently underway that should transform key elements of Vietnam's commercial environment. Still, effective implementation and issuance of follow-on implementing regulations will be important to determining the impact of these legislative initiatives.

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## Chapter 2: Political and Economic Environment

For background information on the political and economic environment of the country, please click on the link below to the U.S. Department of State Background Notes.

<http://www.state.gov/r/pa/ei/bgn/4130.htm>

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Using an Agent or Distributor

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Unless a foreign company has an investment license permitting it to distribute its own goods in Vietnam, a company must appoint an authorized agent or distributor.

Agents: A Vietnamese agent imports and sells a foreign supplier's goods in Vietnam for a commission. The risk of non-payment rests with the foreign supplier, and the after sales service/support is typically performed by the foreign supplier, as the agent is only selling the goods on behalf of the foreign firm. Vietnam's Commercial Code recognizes the right of foreign companies to appoint agents, provided that the Vietnamese agent's authorized scope of business includes such activity and the agent obtains an import-export code from the customs authorities.

Distributors: Under a distributorship arrangement, the question of legal protection and recourse is clearer. The Vietnamese distributor buys the goods from the foreign supplier for resale in Vietnam and thus is liable for the full amount of the goods purchased. Unlike some agents, distributors normally provide after sales service/support. A distributorship arrangement is considered a "foreign trade contract" and must be structured in compliance with Vietnam's regulations on foreign trade contracts. In principle, it is legally binding upon signing.

Legal and Practical Considerations: U.S. companies should conduct sufficient due diligence on potential local agents or distributors to ensure that they have the specific permits, facilities, manpower, capital, and other requirements necessary to meet their responsibilities. Commercial agreements should clearly document the rights and obligations of each party, and stipulate dispute resolution procedures. In most cases, payment by irrevocable confirmed letter of credit is recommended, although it should be noted that letters of credit issued by local banks may not be enforceable.

Going to court is generally not a recommended strategy to enforce agreements or seek redress for commercial problems in Vietnam. Foreign firms who have dealt with the court system in Vietnam report it to be slow and non-transparent. Similarly, although a framework for commercial arbitration exists in Vietnam, the process is not usually considered a viable option for foreign entities. When the need to consider such strategies arises, the advice of an international law firm operating in Vietnam should be sought.

Foreign-Invested Trading Companies in Vietnam: When seeking prospective agents or representatives in Vietnam, U.S. exporters may wish to consider not only Vietnamese firms, but the representative offices of foreign trading companies operating in Vietnam,

as well. The latter, which include U.S. trading companies, often have distinct advantages in communication, experience in importing, expertise in product and package modification, and marketing capability.

Finding a Local Partner: While 100 percent foreign invested enterprises are becoming more numerous, the majority of foreign companies operating in Vietnam have chosen to partner with local firms. One way to locate Vietnamese partners is to contact local chambers of commerce and industry associations. The major chamber of commerce for Vietnamese enterprises is the Vietnam Chamber of Commerce and Industry (VCCI), headquartered in Hanoi with branches throughout Vietnam. VCCI members include state-owned enterprises (SOE's), joint-stock companies, and private firms of all sizes in many sectors. In Ho Chi Minh City, the Investment & Trade Promotion Center (ITPC) can also make introductions to prospective partners. Another channel for finding a local partner is through local industry associations, since most key industries in Vietnam have formed associations. A number of private consultant companies have also developed matching services. Additionally, an effective means for finding a local partner is to utilize the Gold Key Matching Service and/or International Partner Search of the offices of the U.S. Commercial Service in Hanoi and Ho Chi Minh City. Information on this service is available at <http://www.buyusa.gov/vietnam/en/>

## Establishing an Office

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In order to establish a commercial presence in Vietnam, a foreign firm must obtain one of the following three types of license:

Representative Office License: A representative office is generally easy to establish, but is the most restricted form of official presence in Vietnam. The license is issued by the Ministry of Trade (MOT) and allows for a narrow scope of activities, as stipulated in the "Regulations on Establishment and Operation of Representative Offices of Foreign Economic Organizations in Vietnam."

A representative office may rent office space/residential accommodations, employ local staff and a limited number of expatriate staff, and conduct a limited range of business operations. Permitted activities include market research and monitoring of the marketing and sales programs carried out by its overseas head office, as well as pursuing long-term investment activities. As the representative office is regarded as a commercial liaison office and not an operating entity, it is strictly prohibited from engaging in any revenue-generating activities, such as trading, rendering professional services, revenue collection, or subleasing of its office space.

The representative office license permits the foreign company to open only one office at one site. Should the firm wish to open a second office in the same city or, more commonly, in a different city, another license is required. A "branch representative office" license is no longer allowed. Experts advise that a foreign company should decide at the time of application whether it wants more than one representative office in Vietnam. Experience suggests that it is easier to obtain licenses for several rep offices when all are applied for simultaneously. If an additional license application is made at a later date, the Ministry of Trade may require documentation on the performance of the first representative office.

- **Tax Considerations:** A representative office is exempt from corporate tax auditing requirements. Income tax for Vietnamese and expatriate staff must be paid in accordance with relevant regulations.
- **Other Considerations:** From time to time, representative offices have come under scrutiny by the local People's Committees (municipal governments), police, tax and labor authorities, especially with respect to foreign service providers who claim they are not rendering services on-the-ground, but are merely facilitating services actually provided by their head office.

**Application Procedures:** The procedure to establish a representative office is relatively straightforward. An application with stipulated supporting documentation must be submitted to the MOT. The application and profile must be prepared in English and Vietnamese, and both sets of documents must be duly executed. Applicants have 90 days to register with the local People's Committee once the license has been issued. The fee for a representative office license is VND 1,000,000 (about US \$65). The license is usually valid for three years and may be extended for additional three-year periods.

**Branch License:** The term "branch" office under the laws of Vietnam refers to a 100 percent foreign-owned business that operates in certain designated service sectors. These sectors, which are restricted and closely monitored by the Vietnamese government, include banking, law and insurance. Many foreign branch offices first entered Vietnam as representative offices and later applied for a branch license. Branch status authorizes a foreign business to operate officially in Vietnam, including billing on-shore and the execution of local contracts.

- **Tax considerations:** Branches are fully liable for Vietnamese taxes on their assets and activities.
- **Application Procedures:** Applications for a branch license are generally submitted to the ministry or other competent authority for the industry in question (e.g., the State Bank of Vietnam for banking licenses, or the Ministry of Justice for law offices).

Decree 45-2000-ND-CP of the Government dated September 6, 2000 defines a Branch Offices (BO) of a Foreign Business Entity as an "affiliate" established to engage in commercial and/or tourism activities to earn profits directly. BO is limited to conducting business in:

- Export of the following goods purchased in Vietnam: handicraft wares, processed and raw agricultural products (except rice and coffee), processed and raw vegetables and fruit, industrial consumer goods, meat, processed foodstuffs;
- Import of the following goods for sale in the Vietnamese market: machinery and equipment for mining and agricultural or aquaculture processing, raw materials for human and veterinary medicine or fertilizers and insecticides.

**Foreign Investment Licenses (FIL):** Foreign investment in Vietnam is regulated by the Ministry of Planning and Investment (MPI) through FILs and related implementing regulations, decrees, and circulars. Compared to previous legislation the FIL delegates more authority over investment licensing to provinces, municipalities, and investment zones, although several provinces and large cities have been urging the Vietnamese government to expand their autonomy in this area. The Prime Minister's office retains authority over larger and "sensitive" projects. MPI remains the principal government

agency dealing with foreign investors.

There are four primary forms of investment for foreigners in Vietnam:

- i) Joint venture (JV) agreements have been discussed in the preceding section.
- ii) A business cooperation contract (BCC) allows a foreign firm to pursue business interests in cooperation with a Vietnamese firm without conferring the right of establishment or ownership. In many respects it is the most flexible arrangement Vietnam offers to foreign investors, although the BCC license carries no tax holidays or concessions such as those given to other types of foreign investments. BCC's have predominated in the telecommunications and petroleum sectors, where the government limits foreign involvement in operations and management.
- iii) 100-percent foreign-invested enterprises ("FIE's") have become more popular recently, as investors have learned to navigate the local system on their own and as problems with JV partners have become more apparent. Amendments to the Foreign Investment Law adopted by the National Assembly in May, 2000 regularized procedures for conversion of joint ventures to 100 percent FIE's. The new law made a number of other improvements upon its 1996 predecessor which enhanced the attractiveness of investing in Vietnam. It has reduced the number of issues requiring unanimous approval by the boards of joint ventures, thereby strengthening the management control of the majority investor (which is typically the foreign partner). It simplified licensing procedures, lowered remittance tax rates, and gave foreign-invested enterprises relief from excessive government inspections. Disadvantages of FIE's over other forms of investment include more difficult access to land-use rights (except in industrial zones and export processing zones) and a more limited duration of license.
- iv.) Build-operate-transfer (BOT) investment agreements are authorized under the FIL, but the legal, regulatory, and financial framework is still incomplete. The FIL also recognizes build-operate-own (BOO), build-transfer-operate (BTO), and build-transfer (BT) forms of investment projects. Many international observers believe that BOT and other private financing mechanisms hold the key to Vietnam's future infrastructure development. Vietnam's enormous needs have largely been financed by multilateral and bilateral ODA up until now, but the Government's project wish list threatens to overwhelm donors.

Under a BOT agreement the investor builds an infrastructure project, operates it for an agreed period of time to recover the investment and earn a profit, and then returns it to the government without further compensation. In principle, BOT projects are subject to approval by the Prime Minister's Office. BOT projects may be joint ventures or 100 percent foreign-owned. They are exempt from land tax and from payment of duties on goods imported to implement the contracts. They enjoy a lower profits tax rate (10 percent), a 5 percent withholding tax rate (the lowest normal rate), an eight-year tax holiday starting from the first profitable year, and a government guarantee for conversion of revenue from local to foreign currency. The term of a BOT can extend to fifty years, after which project ownership reverts to the government.

In 2003, the Vietnamese Government expanded the options for foreign investment in Vietnam in an effort to attract more foreign investment capital into the country and to enhance the efficiency of existing FIE's. Effective as of May 7, 2003, the recently amended Law on Foreign Investment in VN permits the following:

- Existing FIEs may co-operate with other foreign investors to perform a BCC.
- Joint Venture Enterprises (JVEs) may be established between an existing 100 percent Foreign Owned Enterprise (FOE) and a Vietnamese enterprise or between an existing 100 percent FOE and an existing JVE.
- An existing 100 percent (FOE) may co-operate with another existing 100 percent FOE and/or foreign investor(s) to establish a new 100 percent FOE.

## Franchising

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Franchising could become a significant area of opportunity for American firms, but development of this sector will continue to be constrained until modifications are made to existing laws and regulations. Presently, under a decree governing technology transfers (Decree No. 45/1998/ND-CP) the Vietnamese Government restricts the level of royalties that can be paid to foreign franchisers to a maximum of five percent. This cap is further restrictive in that it is based on an overly narrow definition of "net sales price" to which the royalty limits are applied. Under decree No. 45, net sales price is calculated by subtracting from the sales invoice the following: turnover tax, special sales and value-added taxes; commercial discounts; full costs for the purchase of semi-finished products, elements, parts and/or components from any suppliers and packaging, transport and advertising costs.

Although the Vietnamese Government has contended that these royalty restrictions will only be applied in instances where a franchise license is transferred to an SOE or SOE joint venture, in reality these restrictions have been applied to all franchises, regardless of whether an SOE is involved.

A revision to Decree No. 45 is currently under review by the Vietnamese Government and may provide some relief from current regulations that have inhibited franchise development, including possible elimination of current limits on royalty payments, which have had the effect of discouraging establishment of franchises in Vietnam. Another hurdle (and one, which few have yet cleared) is how to locate prospective franchisees that can assemble sufficient cash and other resources to work with an international franchiser.

Some consumer goods and fast food firms have tested the franchise waters in Vietnam. These include Swatch, Clinique, Baskin-Robbins, KFC, Texas Chicken, Jollibee (of the Philippines), and Lotteria (of Japan). Major international film companies have established extensive networks of photo labs in franchise-like agreements with Vietnamese entrepreneurs. Another area of interest to both foreign franchisers and prospective Vietnamese franchisees is educational services.

Should the legal and regulatory environment improve, franchises could take advantage of the recent explosion in retail space development in Ho Chi Minh City and Hanoi,

which has significantly increased the number of high-traffic sites that would be suitable for retail franchise outlets.

## Direct Marketing

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Unless a foreign company has established a local office under the Foreign Investment Law, it can only conduct direct marketing activities through a Vietnamese partner such as a distributor or agent. Many direct marketing techniques are novel concepts to the Vietnamese consumer and the government is considering regulations designed to protect consumers in this area from unscrupulous “pyramid schemes.” The logistical barriers to direct marketing include the lack of consumer data, a scarcity of mailing lists, and limited private telephone ownership. Several cosmetic and lingerie companies have experimented with door-to-door sales on a limited basis in Ho Chi Minh City. Over the past couple years, foreign life insurance companies have been licensed and have assembled large teams of agents who engage in traditional telemarketing, door-to-door selling, and workplace marketing in urban areas.

Some observers believe that the direct selling and multi-level marketing organizations that have already set up in Vietnam will eventually encounter official suspicion, leading to problems of the kind the industry has recently experienced in China.

For business-to-business marketing, direct mailings/faxes and emails are widely used; however, mailing list databases are typically created in-house. Some leading international consumer market research firms operate in Vietnam and can develop demographic data for their clients.

## Joint Ventures/Licensing

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**Joint Ventures:** A foreign joint venture is a Vietnamese entity, at least one of whose partners is a foreign company. Vietnam’s Foreign Investment Law permits the establishment of 100 percent foreign-invested enterprises (“100 percent FIE’s”) in many but not all sectors. Recent reforms have made this an increasingly popular option, although some foreign investors still opt to form joint ventures with a Vietnamese partner. Joint ventures offer both plusses and minuses. On the positive side, the Vietnamese partner, which is often a state-owned enterprise (SOE), may contribute crucial relationships with government officials and clients, local market know-how, staff, and land-use rights. On the negative side, local partners rarely can contribute operating capital or other current assets. Their management technology is often limited and organizational culture may be cumbersome and bureaucratic. They also may not share the fundamental outlook and objectives of their foreign capitalist partner. Because their resources typically are limited, the local partner may balk at major strategic moves such as recapitalization or changes to the business plan.

JV licenses are normally granted for fifty years. At the conclusion of the term, the JV may be renewed by mutual consent of the parties, or dissolved.

At present there are approximately 3,300 SOE's out of over 100,000 registered domestic enterprises. Under the State’s restructuring plan, many SOEs are destined for

equitization, sale, lease, transfer, closure or bankruptcy. The private sector (generally taken to mean sole proprietorships and limited liability companies) makes up most of the rest. There are also a large number of household enterprises, which, although unregistered, comprise a significant share of non-agricultural output and employment. However, the average capitalization of the SOE's is many times that of the other forms, allowing them to dominate manufacturing and trade activities. Therefore, many foreign investors partner with SOE's, including firms controlled by central government ministries and by municipal and provincial authorities.

Local private firms routinely lack the financial resources and know-how to facilitate contacts with potential foreign investors, while government ministries and provincial authorities usually promote enterprises related to their own organizations. Private firms must contend with greater government-imposed controls than their state-run counterparts, specifically with respect to access to land, trading licenses, and entry barriers in some sectors. The state-owned sector also has preferential access to financing and foreign exchange.

Technology can be transferred by outright sale, licensing, or contribution as capital. Foreign JVs often contain technology transfer provisions. The Ministry of Science and Technology has primary authority to approve technology transfer contracts. The implementing regulations of the law governing technology transfer have made such deals very difficult. The key areas to note are strict requirements for precise details on the timetable for the delivery of technology; provisions requiring extensive warranties; the limited duration of contracts; and restrictions on royalty rates. The Commercial Code does provide protection for transferred technology, but some of its provisions remain to be implemented.

Licensing: Licensing arrangements are beset by many of the same problems as franchising: stringent regulations, long approval times, restrictions on payments, limited contract duration, weak legal frameworks and intellectual property rights (IPR) problems. Nevertheless, there is considerable licensing of trademarks, technology, and after-sales service activities from overseas companies to affiliated joint ventures in Vietnam.

## Selling to the Government

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The Government is the leading purchaser of goods and services in Vietnam. If provincial and municipal governments and SOE's are included, the potential for sales to this sector is enormous. Although the State budget is not large, for several years Vietnam has received in excess of \$2 billion annually in Official Development Assistance (ODA) commitments. In late 2004, during a biannual consultative session, multilateral and bilateral donors pledged approximately \$3.5 billion in ODA to Vietnam. Much of this is in the form of loan aid for infrastructure, which is "untied" according to international donor rules. Infrastructure is the principal development priority, but the government also plans to procure a significant amount of equipment in order to modernize its administrative structure. Key industries include transportation, telecom, energy, environmental/water, civil aviation, and financial services. Unfortunately, Vietnam's track record for actually implementing projects (whether funded domestically or by ODA) has been mixed at best.

Government procurement practice can be characterized as a multi-layered decision-making process, which often lacks transparency and efficiency. Although the Ministry of Finance allocates funds, various departments within the ministry or agency involved determine government procurement needs. Competition can be by sole source direct negotiation, limited tender, open tender, appointed tender, or special purchase. Currently, ministries and agencies have different rules on minimum values for the purchase of material or equipment, which must be subject to competitive bidding. High value or important contracts, such as infrastructure, require bid evaluation and selection and are awarded by the Prime Minister's office or other competent body, except for World Bank, Asian Development Bank, UNDP, or bilateral official development assistance (ODA) projects. Some solicitations are announced in the Vietnamese language newspapers (Nhan Dan, Lao Dong and Saigon Giai Phong) and in the English language newspapers (Vietnam News and Vietnam Investment Review). U.S. firms may also be able to register to obtain a consolidated listing of government or private tenders in Vietnam at <http://www.intellasia.com>

The key to winning government contracts includes a high degree of involvement and communication between the foreign supplier, the local distributor or representative, and relevant government entities. Interaction should begin during the project planning stage. In order to secure orders in competitive bidding, it is necessary to establish rapport and credibility, as well as to educate the procuring entity as to how the product or service can support project needs well before the bid is publicly announced. Although the timing for tender opening, bid closing and award notification varies from project to project, preparation of government budgets generally occurs between January and June, with actual purchases made in July and August. Experienced foreign suppliers caution that even after awards are made, negotiations on price, specifications, payment terms, and collateral may continue for some time.

To provide more structure and transparency to the bidding process for infrastructure projects, the government issued Decree 88/1999/ND-CP dated September 1, 1999, covering three general areas: 1) consultant selection; 2) equipment supply and construction; and 3) partner selection in investment projects. Under this Decree, Bidding Regulation No. 4/2000/TT-BKH dated February 26, 2000 was issued by the Ministry of Planning and Investment (MPI) to detail bidding procedures. Infrastructure projects are normally required to be tendered by competitive bidding. Despite the new rules, delays, non-transparent procedures, and allegations of impropriety often beset projects in Vietnam (including multilateral development bank projects and bilateral ODA projects). In local government-funded projects, contracts are commonly awarded to those who can offer "appropriate" price, "decent" quality and have "strongest connections" with project developers. In other words, procurement under these rules is considered not very transparent and largely depends on relationships.

## Distribution and Sales Channels

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Legal Constraints on Foreign Participation: Despite recent liberalization, Vietnam's regulations continue to place significant restrictions on foreign participation in the importing and distribution sectors. In this context, "foreign" refers to companies or organizations with foreign capital. To a large extent, import and distribution activities are reserved for Vietnamese entities, and offshore manufacturers must work through Vietnamese firms to establish distribution or retailing operations inside Vietnam.

However, foreign-capital companies licensed to manufacture in Vietnam may be permitted to distribute their products domestically. Investment licenses now may also allow foreign-invested companies to import raw materials for manufacturing their products locally, as well as finished products before production start-up for the purpose of test marketing and developing the business over a limited period of time.

Under the U.S.–Vietnam BTA, U.S. firms are permitted to own up to 49% of joint ventures with Vietnamese partners in distribution services beginning three years after the date of entry into force of the Agreement (on December 10, 2004), subject to some limitations on trading and distribution rights. As of December 10, 2007, majority ownership by an American company will be allowed, and 100% U.S. ownership of distribution service companies will be permitted as of December 10, 2008.

Distribution Channels: Vietnam's distribution system is a fragmented patchwork of state-owned import-export companies, private and state-owned wholesalers, independent Vietnamese agents and distributors, retail outlets, and street stalls. The formal distribution channels often overlap parallel channels for smuggled and "gray market" goods.

Non-Vietnamese entities are barred from general participation in Vietnam's distribution system, although foreign investors have the right to sell, market, and distribute what they manufacture locally. Most local firms holding import licenses are state-owned enterprises (SOE's).

For many products, nationwide distribution requires the establishment of separate networks in the north, the south, and the central regions. Lack of physical infrastructure links among the major regions, cultural and economic differences across the nation, and the fact that today's Vietnam was divided during the period when the modern economy was established all make it difficult to achieve "one-stop" distribution in many sectors.

Importing and Exporting: In order to engage directly in export or import activities, a company's business registration certificate must cover "import-export" or "trading." This activity is mainly reserved for Vietnamese firms, both state-owned and private. A foreign-invested enterprise may be granted a license to import specific products designated in its investment license, especially raw materials and even finished goods needed to develop a market for products that will eventually be produced in Vietnam.

Companies that do not have their own import license must work through licensed traders, who typically charge a commission of between one and two percent of the value of the invoice. Under Vietnamese law, the importer is the consignee. Therefore, it is important to identify a reliable importer with the ability to clear merchandise through customs quickly and efficiently. If a licensed third-party importer is used, the importer will handle customs clearance. If a foreign invested firm imports products directly, it will have to make arrangements to handle customs clearance at the port. This can be burdensome. Many foreign firms have complained that the administration of customs is opaque, at best. Importers have charged that duty classifications for the same product differ from inspector to inspector, and that even the same inspector may charge different rates for the same item at different times. There is little effective recourse should the importer disagree with the classification. Over the past few years, customs officials at many levels have been indicted on charges of corruption and many importers have become accustomed to paying "facilitation fees" to gain clearance of their goods through

customs.

Wholesale: Both local and foreign-invested companies may act as wholesalers if their business registration certificates or investment licenses so state, or if the wholesale operations are established for the purpose of distributing their own products.

While a small number of foreign-invested warehousing operations offering modern and efficient facilities have been established in recent years, warehouses and other storage infrastructure in Vietnam are for the most part quite basic. Climate control is rare and security may be a problem. Tracking and processing of inventories is primarily manual, and the physical movement and handling of goods is on par with practice in other less developed nations in the region.

Wholesalers may or may not also be licensed importers. They typically offer both storage and transportation services, but the level of infrastructure and service is low by international standards. Warehouses in Vietnam often consist of little more than raw storage space with the bare minimum of environmental control, handling and security equipment. Many wholesalers are poorly capitalized and unable to upgrade their infrastructure. At least one U.S. firm has established third party, value-added wholesaling operations in HCMC. Other foreign firms are investing in “cold chain” port facilities, especially in the South.

A significant development in wholesaling was the launch in 2001 of a wholesale cash-and-carry operation to serve small retailers by Germany's Metro AG group. Metro Cash and Carry operates a members-only service restricted to businesses and offers a variety of both food and non-food items. The company has fairly ambitious plans to expand its operations in Vietnam's larger cities over the next few years.

Retail: Vietnam's retail landscape is undergoing rapid transformation, providing more outlets for proper display and marketing of products. A number of Western-style mini-markets and convenience stores (e.g., MaxiMart, CityMart and Saigon Coop) are cropping up in the major urban areas. While anecdotal reports suggest that shoppers perceive the mini-marts as expensive and per customer sales are still fairly low, most experts agree that this trend will continue to gather pace, as it has among Vietnam's more developed neighbors. At the moment, these outlets are said to account for about five percent of total retail trade, and most consumer purchases continue to take place at traditional street-side shops or official “wet” and “dry” markets organized by district governments. Nevertheless, these new retail outlets are expanding rapidly in major cities and offer promising opportunities for distributing a wide-range of U.S. consumer goods. An example of a recent international entrant to Vietnam's retail segment is France-based Big C, which opened a “hyperstore” outlet in Hanoi in January 2005. This store is the chain's fourth retail outlet in Vietnam. Company officials expect 10,000 customers a day to visit the facility.

Shopping center developments are also mushrooming in Vietnam. The Saigon Superbowl and Diamond Plaza in Ho Chi Minh City, the nation's first large-scale entertainment and retail centers, only opened in 1996 and 2000 respectively. Other recent developments include a large retailing center (21,797 sq. m) in the mixed-use Thuan Kieu Plaza in Cho Lon, HCMC's “Chinatown”, as well as SAVICO-Kinh Do Plaza, a pastel “strip mall” type development in the heart of District 1. Although Ho Chi Minh City leads this sector, similar developments are taking place in Hanoi, which saw its

second downtown mall open in late 2004.

Showrooms and service centers for specialized products such as electronics, appliances, automobiles, and industrial goods are also increasing. General Electric (GE) Company's Appliance Division and Lighting Division have launched chains of retail outlets and industrial equipment manufacturer Parker-Hanafin and air conditioner giant Carrier have opened similar outlets in HCMC. These developments are changing the way the wealthier and more cosmopolitan segment of urban Vietnamese shops. Still, apart from these pioneering projects, retail outlets consist mainly of family-run market stalls or small street-front shops.

## Selling Factors/Techniques

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Development of Consumerism: Foreign brands have proliferated in Vietnam over the past decade. This is indicative of rising urban incomes and a relative opening to the outside world. Market observers speak of the growth of "consumerism" in Vietnam, but it must be borne in mind that this remains a country with low per capita GDP (under \$500 for the country as a whole, according to official figures). The market for most imported consumer goods is the well-off segment in a handful of large cities and some parts of the Mekong Delta. Among consumers there is much trial usage, but little brand loyalty. The bottom line generally comes down to price. The main attractions of foreign products are their perceived higher quality and status. Among foreign products, there is a general hierarchy of perceived quality, based on the country of origin. Vietnamese consumers tend to prefer imported US, Japanese and European brands over Chinese products and those made locally by foreign and Vietnamese producers. Ultimately, brand loyalty is built on price, proven quality and availability.

Awareness of brands comes from word of mouth, promotions and advertising. Urban consumers are remarkably familiar with leading foreign products, even those not generally available in Vietnam. One major reason for this is contact with, and "care packages" from, relatives abroad. Overseas Vietnamese, mostly first-generation emigrants, amount to a few million people concentrated primarily in the United States, Canada, France, Australia, and Southeast Asia. A large number of them maintain close contact with their families in Vietnam, and transfer quite a bit of information on lifestyles abroad. The large volume of gray and black-market goods also furthers consumer familiarity with foreign brands brought in from neighboring countries. However, copycat products made in Vietnam have taken market share from some original producers.

Market segmentation: Geography is a key factor in segmenting Vietnam's market. This includes not only the regional segmentation of North-Central-South, but also the segmentation of urban versus rural markets. Vietnam is roughly separated into three separate economic regions surrounding core urban centers: the South centered on Ho Chi Minh City, the North based in Hanoi, and the Center focused on Danang. The main distinctions among these regions are consumer purchasing ability, brand awareness and recognition. Vietnam's per capita GDP stands at around \$500, while unofficial estimates put HCMC's per capita GDP as high as \$1,700. The actual disparity is probably even greater, as certain income elements that are not well captured in official statistics (such as remittances from overseas relatives and private sector activity) are centered more in the South. Currently, consumer purchases are strongest in Ho Chi Minh City (and the contiguous provinces of Binh Duong, Dong Nai, and Ba Ria-Vung Tau), where there is a

concentrated and growing population of consumers with disposable income. Consumers in the South also tend to exhibit a greater degree of brand awareness than do consumers in the North and Central regions. This is principally due to extensive contact with Westerners prior to 1975 and the influence of returning overseas Vietnamese. These defining factors have had an impact on market demand disparities, market entry strategies, product-line segmentation and marketing mix. For many companies, the first marketing goal is to penetrate Ho Chi Minh City; as well over half of all Vietnamese purchases of foreign consumer goods take place in this area.

Product Information: Foreign companies in Vietnam utilize trade fairs, product seminars, product demonstrations, and point-of-sales materials, as well as print and broadcast advertising. The aim is not only to promote their merchandise, but also to educate both sellers and end-users. Many foreign products do not need to be adapted to local tastes and conditions, but it may be necessary to educate the buyer as to the features and benefits of the product. Detailed product information in the Vietnamese language should be provided to agents and distributors. It should be noted that seminars, product promotions, workshops, and press conferences may require approval in advance by local authorities.

Practical Considerations: As a rule of thumb, hands-on involvement is required to achieve commercial success in Vietnam. U.S. firms should foster close relationships and maintain regular communication with Vietnamese representatives, agents, and/or distributors of their products. Not only are many products competing for limited shelf, showroom or warehouse space, but Vietnamese representatives often handle multiple brands of the same product type. A close relationship allows the foreign supplier to keep abreast of the changes and developments in local market conditions and assess the competitiveness of its products. This approach also ensures that the Vietnamese partner is updated on product information and motivated to market the product. Frequent training and support for after-service activities are also key elements of this activity.

## Electronic Commerce

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Electronic commerce remains in its infancy in Vietnam. Obstacles to its development include the low number of Internet subscribers in-country, obtrusive firewalls, limited bandwidth and other problems with the Internet infrastructure, limitations of the financial system (including the low number of credit cards in use), and regulatory barriers. The latest developments to facilitate the growth of e-commerce in Vietnam include legal acceptance of e-signatures and implementation of electronic inter-bank transaction systems. The number of online transactions has been gradually increasing.

Over the past years, some pioneering e-commerce projects have been launched by foreign entrepreneurs, including:

<http://www.mekongsources.com>

<http://www.tradeinvietnam.com>

<http://www.bvom.com>

Advertising has been permitted in Vietnam only since 1990, but the industry has grown rapidly in the past decade. Industry experts estimate foreign-invested enterprises spend around \$1 billion annually on advertising in Vietnam, but more than 70 per cent of this goes to the foreign-invested advertising firms.

Regulation: Advertising remains heavily regulated by the Vietnamese Government. In principle, only companies licensed in Vietnam may place advertisements. Advertisements for tobacco and liquor (excluding beer) are prohibited in the mass media. Advertising for pharmaceuticals, agri-chemicals, cosmetics and toiletries require registration and approval from the appropriate ministries before being run, while the Ministry of Culture and Information must approve all advertising content. Arbitrary enforcement and interpretation of the regulations hinder the development of the advertising industry. Limits on advertising and promotional expenditures exist and are tied to a percentage of total sales.

Foreign Ad Agencies in Vietnam: Vietnam's advertising market is now home to around 700 advertising companies, plus nearly 30 foreign-invested representative offices and seven wholly foreign-invested firms. About 80 percent of local advertising companies are now working on advertising contracts for foreign-invested advertising firms. Only the remaining 20 per cent have independent advertising contracts, but these are still backed-up by foreign companies abroad. Most foreign advertising firms are not permitted to directly sign contracts with local media agencies. Instead they have to go through local advertising companies to implement ad campaigns in newspapers or TV commercials

The majority of foreign advertising firms are likely to remain as representative offices for the foreseeable future. Many foreign firms work closely with Vietnamese advertising companies in order to support their international clients. Under the BTA, American companies are allowed to enter into joint ventures with Vietnamese firms, to offer advertising services, but the U.S. partner is limited to a 49 percent equity stake. This cap will increase to 51 percent in December 2006, and be fully removed in December 2008.

While highly sophisticated advertising production may have to take place offshore, most production for the multinational ad agencies occurs place within Vietnam, primarily in Ho Chi Minh City. Foreign advertising executives say that the "80/20" rule applies to the geographical distribution of their business in Vietnam: 80 percent of the business is in Ho Chi Minh City, while 20 percent is in Hanoi. Ho Chi Minh City and the surrounding provinces are said to lead the rest of the nation in disposable income, familiarity with foreign trends and brands, quality of broadcast programming and print media, and production skills.

Clients: For the foreseeable future, multinational corporations in Vietnam will provide most of the business for foreign advertising firms. In recent years, the top ten ad buyers in both TV and print have all been foreign-invested companies. Currently, the leading categories of TV ads are toiletries/cosmetics, soft drinks, pharmaceuticals, household cleaning products, and foods. The leading print ad buyers are firms marketing soft drinks, toiletries/cosmetics, vehicles (primarily motorcycles), pharmaceuticals, and transport/tourism services.

Television: Many foreign brand managers make heavy investments in television advertisement campaigns. Over 90 percent of Vietnam's urban population of 18 million owns televisions. These viewers watch an average of three hours per day, mainly during the peak time of 6-9 p.m. Household television ownership is estimated to be 92 percent in HCMC and 96 percent in Hanoi. However television viewership is higher in the HCMC area throughout the day, and nearly four times that of Hanoi in peak evening hours according to one recent survey. There are five major television stations and one national broadcaster (VTV). With the emergence of satellite dishes, many households also watch international networks (CNBC, CNN, StarTV). Vietnamese advertisers spent an estimated \$100 million annually on TV advertising.

In accordance with the recently issued Decree No. 24, advertising campaigns on radio and television must not exceed eight continuous days at any one stage, except in some exclusive cases. A film broadcast on television is permitted to be interrupted no more than twice by advertising, and each instance must not exceed five minutes, while the limit for light entertainment programs is no more than four times, each time not exceeding four minutes. Decree 24 does not permit advertising immediately after the opening music or titles in news and documentary programs, although it is permitted in film, sports and light entertainment programs.

Print Media: While spending on TV advertising increased substantially, it is print advertising that has really exploded, with annual growth rates of around 30 per cent achieved in recent years.

A high literacy rate, a surge in new publications, and increased print media circulation all support the print media's growing popularity as an effective channel for advertising. Regulations place limits on space allocated for advertisements. Surveys suggest that Vietnam's advertising rates are the lowest (in terms of cost per insertion) in the Asia-Pacific region. There are over 400 newspapers and other publications in Vietnam, but few have nationwide circulation. Among the more popular publications are "Thanh Nien" (Young Adult), "Nhan Dan" (The People), "Tuoi Tre" (Youth), "Saigon Giai Phong" (Saigon Liberation) and "Lao Dong" (Labor). Within the past year, several international quality publications have begun circulation, including "Nha Dep" (Beautiful Home), "Dinh Cao" (Sports & Fitness), "M" (Fashion) and "Phu Nu The Gioi" (Woman's World), Gia Dinh & Tiep Thi (Family & Marketing). These latest publications are setting new standards for the quality of publishing in Vietnam. English newspapers and publications include the Saigon Times Daily, Vietnam News, Vietnam Economic Times, and Vietnam Investment Review.

Outdoor Advertising: Outdoor advertising ranges from billboards and signboards to public transport, building walls, bus stations, and wash and service stations, among others. Many placements are illegal, so firms should confirm that the advertising agency has proper permits to lease the space.

Under Decree 24, large outdoor advertising billboards that are not suitable to urban planning, social safety, aesthetics and the environment will be restricted in urban areas. For example, billboard advertising in Ho Chi Minh City is restricted to the vicinity of the airport. Advertising on articles such as umbrellas, scooters, booths and roofs does not require a permit; however, it must comply with advertising regulations.

Radio: Radio advertising is not yet widely used for product promotion, but radio ad volume is growing. This is largely due to improvements in programming, such as the inclusion of English lessons and international music along with the standard selection of Vietnamese pop music, which in turn increases the appeal of radio programs to advertisers. Today, the audience represents a cross-section of the population with increasing buying power. There are three major stations and one national broadcaster, Voice of Vietnam (VOV). The cost per thousand listeners is very inexpensive. Although radio has not been so popular as TV and print, radio ad expenditures have doubled over the past few years.

Trade Fairs: Trade fairs are numerous and cover a broad range of sectors, but generally do not provide venues of an international standard for product promotion. Many are co-sponsored by government ministries, SOEs, and industry associations. Common venues are the Giang Vo Exhibition Center, the Viet-Xo Cultural House, and the Army Guest House in Hanoi. In Ho Chi Minh City, the Reunification Palace, international hotels and Ho Chi Minh City International Exhibition and Convention Center are the common locations. Booth rentals at many shows average around US \$100/m<sup>2</sup>.

## Pricing

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The overriding factor in pricing for the Vietnam market is the low level of per capita income. While consumers want quality and understand that quality comes at a premium, most buying decisions are highly price-sensitive.

Imported products generally begin with higher production costs reflected in the invoice, and then must incorporate the following elements into the pricing structure:

- Import agent fees (typically 1 to 2 percent of the invoice).
- Customs duty. As a result of the implementation of the U.S. – Vietnam BTA, the Government of Vietnam has granted permanent Normal Trade Relations (NTR) duty rates to goods of U.S. origin. While these are the lowest tariffs levied, they still may be as much as 50 percent on nonagricultural products.
- Value-added tax (VAT) in the range of 5 to 10 percent is levied on the landed cost when the goods change title.

Typical markups for fast-moving consumer goods range from 10 to 15 percent at the distributor level (assuming a fairly high level of distributor service), and retail markups are also in the same neighborhood.

Price plays an important role in the consumer's perception of the product. Although Vietnamese consumers expect to pay a premium for a foreign label or brand, in practice, the actual number of consumers who are willing to pay the higher price is limited. Most Vietnamese buyers are very price-sensitive, as one would expect given the low per capita income. With the abundance of less expensive products in the form of smuggled or counterfeit goods and “copycat” brands, competition is keen. Market analysts agree that one exception to this generalization is consumer durables. Many Vietnamese view the purchase of big-ticket consumer items as both a status symbol and an investment. Therefore, they want to buy the best in terms of quality and durability.

### Practical Considerations:

- Import taxes, value-added tax (VAT), special consumption taxes, customs service fees, and delivery delays can quickly price products out of the market or cut margins. The fragmented distribution system creates multiple layers of wholesalers, dealers and vendors, with markups at each stage. Moreover, foreign suppliers are often frustrated by their inability to maintain control over the product's pricing. Random and frequent price fluctuations are common, as many local distributors and wholesalers under-cut prices to achieve a faster turnover or withhold goods to prop up prices.
- One important pricing cycle to note is linked with the Christmas Holiday and the Lunar New Year celebration (several days between late January and mid February, depending on the year). As there is a flurry of buying in the few months preceding these holidays and little activity immediately afterwards, price hikes and reductions follow accordingly.
- While individual incomes are rather low, purchasing power may be higher than expected as a result of the extended family organization, which is still quite common in cities (and nearly universal in the countryside). Unmarried adult children commonly live with parents, as do the eldest son and his family. Thus, several wage earners can pool earnings within a household. Similarly, less income is spent on housing per person, and unmarried adult children in particular may be able to spend a large percentage of their income on discretionary purchases. For larger items such as consumer durables, relatives may pool funds to provide one another low-interest or interest-free loans in rotation.

### Sales Service/Customer Support

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After-sales service and customer support are important components of a sale, as they can distinguish a company from its competitors. Purchasers of foreign products will expect access to a supplier in country, rather than from a regional base. This will be especially true for state-owned enterprises (SOE's). Foreign firms may need to emphasize customer service training for the front-line local staff, as well as technical training for technicians.

Warranties are also an effective marketing tool to assure customers that they are buying a genuine, high quality product. After-sales service is viewed as part of marketing and distribution. Foreign (offshore) suppliers are not permitted to provide direct sales service and customer support unless they have a licensed foreign investment project in Vietnam. Otherwise, a Vietnamese company must provide these services.

### Protecting Your Intellectual Property

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Vietnam is a member of the World Intellectual Property Organization (WIPO) and is a signatory to the Paris Convention for the Protection of Industrial Property. It has acceded to the Patent Cooperation Treaty and the Madrid Agreement Concerning the International Registration of Marks, and in late 2004 joined the Berne Convention. Vietnam is working to devise a system of protecting intellectual property rights (IPR) consistent with the WTO TRIP's agreement, and has made related commitments under

the U.S - Vietnam Bilateral Trade Agreement. Vis-à-vis TRIPS standards, Vietnam still lacks regulations on the protection of encrypted program-carrying satellite signals

While significant progress on the legal regime for protecting IPR has taken place in recent years, enforcement of IPR remains woefully inadequate at the street level and market level, at least with regard to music, motion picture, software and trademark violations. Most of major cities in Vietnam are rife with music CD, VCD, and DVD shops, with 99 percent of the product on sale pirated. A wide variety of consumer products bearing false or misleading labels are also readily available in the markets, as are counterfeit labels themselves. Local police authorities often are slow to act on court decisions. Violators sometimes negotiate with plaintiffs demanding payoffs to stop producing pirated material.

There are several enforcement agencies involved in and vested with authority to address IPR infringement issues. These include the Ministry of Science and Technology Inspectorate, the Ministry of Culture and Information Inspectorate, the Ministry of Trade Market Management Bureau, the Ministry of Public Security Economic Police, the Ministry of Finance Customs Office and the People's Court (Civil Court). As a result, there are no clear-cut lines of responsibility among these agencies. Generally, sending warning letters to infringers or bringing civil actions to the courts has not been very effective. Warning letters that are not accompanied by a decision of infringement from the National Office of Intellectual Property (NOIP) are often ignored and court actions are lengthy and relatively costly. Vietnamese courts do not have detailed intellectual property regulations or settled procedures for dealing with intellectual property cases and their knowledge and experience in this filed is still limited. Administrative enforcement has been the most effective approach and is recommended as the first step for dealing with infringement cases in Vietnam.

Foreign firms, which have attempted to work with Vietnamese authorities to enforce IPR regulations at the street level, have reported mixed success. A number of U.S consumer goods manufacturers audit black market and pirated product in the marketplace and attempt to counter it with campaigns of education and incentives.

## Due Diligence

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Any firm establishing new business ventures in Vietnam should develop business relationships in a positive, but cautious manner. It is imperative that relationship building include adequate due diligence prior to entering into contracts or other commercial arrangements. The overall mentality of the local business sector is oriented toward making money quickly, by any means. The concept of building businesses and business relationships in order to profit in the future is not wide-spread (although one may hear quite a bit of rhetoric about the need for the foreign party to make a long-term commitment). Thus, extra care must be taken to check the bona fides of every business, be it agent or customer, before entering into a business arrangement.

The best way to check the quality of the business and its management staff is to request a list of customers and suppliers that are currently transacting business with the entity. One must make the effort to contact a number of references, in order to verify the validity and integrity of the business. The more references of foreign suppliers and/or customers, the better.

This is especially true for consultants, whether local or foreign. These firms should be able to supply a list of satisfied customers. There have been many cases of consulting firms that have failed to perform in this market. Ensuring that the firm has actually completed several successful transactions on behalf of foreign clients can eliminate these types of situations.

One of the most challenging aspects of developing partnerships in Vietnam is verifying the bona fides of prospective partners. As noted elsewhere, very few firms in Vietnam are audited to international standards. This may change as certain joint-stock companies submit themselves to more rigorous audits with a view to listing on Vietnam's infant stock exchange. Private firms may prefer not to disclose assets and funding sources (let alone liabilities), while information on SOE's may be considered sensitive by the authorities. There are no commercial credit information services in Vietnam, and banks generally will not divulge to third parties information about the financial status or history of their clients. Faced with such challenges, many foreign parties simply request international law firms to investigate prospective local partners. In general, the following resources are available:

Online company information: Information on a number of companies is available from

- People's Committees: Local municipal governments have information from filings of local corporations. While this is not generally available to the public, authorities do recognize that certain professionals such as attorneys have a legitimate need for such information and may share it with them.
- News media databases: A certain amount of information may be obtained from databases (increasingly issued in CD-ROM form) of leading English language periodicals such as the Viet Nam News (<http://vietnamnews.vnagency.com.vn>), the Vietnam Investment Review ([www.vir.com.vn](http://www.vir.com.vn)) and Vietnam Economic Times ([www.vneconomy.com.vn](http://www.vneconomy.com.vn)). This may be particularly helpful in determining whether negative information on a company has been published.

#### Local Professional Services

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*Foreign Law Firms:* As Vietnamese law firms still generally lack expertise in commercial and international law, foreign investors should consider using the services of a foreign law firm in Vietnam. At present, registered branch offices of foreign law firms in Vietnam are only permitted to advise on foreign or international law and are prohibited from advising on Vietnamese law. Most foreign law firms employ unlicensed Vietnamese law graduates and retain the services of a Vietnamese law firm when necessary, thereby providing a broad range of services to their international clients.

Branches of U.S. law firms in Vietnam can employ fully licensed Vietnamese lawyers in accordance with the commitments stated in the U.S.–Vietnam BTA. The BTA allows U.S. law firms to operate in Vietnam by establishing branch offices, U.S.-owned law firms or joint ventures with Vietnamese partners. They are still not permitted to participate directly in legal proceedings as barristers or representatives of their clients before the courts.

The U.S. Commercial Service Offices in the U.S. Embassy in Hanoi and in Ho Chi Minh City maintain a list of foreign law firms with offices in Vietnam for reference purposes.

Vietnamese Law Firms: The services of local law firms encompass investment, law and consulting services. Services range from preparing applications for representative offices, trademark registration, and feasibility studies to conducting market research and identifying investment opportunities. As many of these firms have ties to a particular ministry or government agency, they may be well connected with key decision-makers and can facilitate access to officials, provide insight regarding government policy, and advise on negotiation techniques. By the same token, however, conflicts of interest may also arise in such circumstances.

Practical Considerations: It is important that investors verify the qualifications of a lawyer (both local and foreign), including references, before contracting his or her services. Many foreign investors have hired Vietnamese consultants to prepare feasibility or market studies. It is also common for the ministry with oversight responsibility to recommend an affiliated consulting company to work with the foreign investor.

Consulting Services: Both internationally recognized and local consulting and advising services are available in Vietnam. As the economy develops and market opportunities expand, availability of such services will continue to broaden. Such entities can provide invaluable assistance in performing market research and providing guidance to firms

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<http://www.vietnamtrade.org/marketplace.cfm>

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## Chapter 4: Leading Sectors for U.S. Export and Investment

### Commercial Sectors

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## 1. Computer Hardware and Software Services

### Overview

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<b>IT Market in Total</b>			
	2002	2003	2004 (estimated)
Total Market Size	400	515	650

<b>Computer Hardware</b>			
	2002	2003	2004 (estimated)
Total Market Size	329	410	518
Total Local Production	69	72	75
Total Exports	9	10	17
Total Imports	269	348	460
Imports from the U.S.	21.3	29.5	60

<b>Computer Services</b>			
	2002	2003	2004 (estimated)
Total Market Size	48	70	88
Total Local Production	30	44	56
Total Exports	N/A	N/A	N/A
Total Imports	20	29	36
Imports from the U.S.	15	16	19

#### + Remarks:

- \* The above statistics are in US\$ millions and are unofficial estimates
- \* Total Market equals Imports plus Local Production minus Exports
- \* The total IT market includes hardware, software, and computer services

The information technology industry represents one Vietnam's fastest growing sectors. A recently published market study by a major private-sector research organization suggested that during the period from 2004-2008, Vietnam's spending on this sector will be among the top ten in the world. The Government of Vietnam has articulated a commitment to boosting the development of the ICT industry, particularly in the software production sector, Internet infrastructure, IT education promotion, and other forms of human capital development.

Vietnam's Information Technology (IT) industry had sales of \$515 million in 2003, a figure expected to reach \$650 million in 2004 and to continue its rapid growth through 2005 and beyond. Together with the revenue of the post and telecommunications sectors of \$1.450 billion, total sales for Vietnam's ICT industry in 2003 were nearly \$2 billion. Surveys conducted by international firms and local industry associations show the growth rate of Vietnam's IT sector in 2003 was 28.8%, and is expected to continue at around 25 percent in the coming years.

Sales in Vietnam's ITC sector have been dominated by hardware purchases, which have accounted for approximately 80 percent of total IT spending during the past five years. This focus on hardware reflects, in large part, the widespread piracy of software and lack of effective protection of intellectual property in Vietnam. Estimates of the rate of pirated software in use in Vietnam range from 94-99 percent.

Vietnam's imports of computer hardware and peripherals totaled \$348 million in 2003, out of total sales for these products of \$410 million. In 2004, sales of computers and peripherals are expected to reach \$518 million, of which about \$460 million will be imported. Vietnam's IT market is still concentrated in two major cities: HCMC, which accounts for approximately 60 percent of all sales, and Hanoi, which accounts for about 30 percent of the market. The year 2003 marked the very first time that the number of computers sold in Vietnam reached 1 million units. Of these million machines, Vietnamese branded computers accounted for 10%, with another 10% imported. The remaining units represented computers assembled in Vietnam from imported parts.

Internet related service providers represent another fast-growing industry sector for IT equipment, software, and service suppliers. So far, six Internet exchange access service providers (IXP), 15 Internet service providers (ISP), 12 On-line service providers (OSP) were licensed. This move has broken the monopoly of Vietnam National Post and Telecommunications Corporation (VNPT). As of July 2004, Vietnam has 1,436, 417 Internet subscribers with 5,341,943 Internet users that was equal to 6.55% of the population. Vietnam currently has total international bandwidth of 1,038 Mbps. These figures will increase rapidly, as there are significant efforts to broaden the availability of the Internet for public use.

#### Best Products/Services

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Internet equipment and training services are among the best prospects for U.S. exporters of information technology.

#### Opportunities

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Despite existing barriers, American IT companies will find growing opportunities for doing business in Vietnam, particularly in sectors associated with internet development.

The IT industry offers opportunities for training service providers as well. The Government of Vietnam has drawn up an ambitious plan for the domestic industry that aims at reaching annual sales of \$500-800 million by 2005, and \$3 billion by 2020. The plan consists of three major programs: the development of IT human resources, the development of a software export sector, and the development of a hardware-manufacturing base. Currently, Vietnam does not have the capability to execute the Government's plan in any of these areas. In order to do so, significant investment in training and technology transfer must occur – a need that could offer significant export opportunities for American IT hardware and service suppliers.

Many leading American PC manufacturers have marketing operations in Vietnam with IBM, Dell, leading Hewlett-Packard leading the market. Vietnam will continue to import a significant number of PCs and peripherals. The primary customers for imported equipment are multi-national corporations, large state-owned-enterprises, and the government.

The computer services market has developed as a two-tier market with foreign computer firms serving foreign businesses operating in Vietnam and local firms catering largely to Vietnamese clients. For the most part, foreign companies seeking computer services use foreign invested service providers. Meanwhile Vietnamese companies rely on local computer retailers who offer a limited package of services.

#### Resources

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Vietnam's National Steering Committee on ICT (NCICT)

<http://www.ictcommittee.gov.vn>

Ministry of Posts and Telematics (MPT)

<http://www.mpt.gov.vn>

Ministry of Science and Technology (MOST)

<http://www.most.gov.vn>

Ministry of Planning and Investment (MPI)

<http://www.mpi.gov.vn>

Ministry of Trade (MOT)

<http://www.mot.gov.vn>

Vietnam Posts and Telecommunications Corp. (VNPT)

<http://www.vnpt.com.vn>

Vietnam Internet Network Information Center (VNNIC)

<http://www.vnnic.net.vn>

HCMC Computer Association

<http://www.hca.org.vn>

## 2. Telecommunication Equipment and Services

### Overview

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Telecommunications Equipment	2002	2003	2004 (estimated)
Total Market Size	648	840	1,050
Total Local Production	218	282	354
Total Exports	13	16	18
Total Imports	417	542	678
Imports from the U.S.	38	55	72

Telecommunications Services	2002	2003	2004 (estimated)
Total Market Size	1,553	1,758	1,995
Total Local Production	1,335	1,500	1,690
Total Exports	135	160	190
Total Imports	83	98	115
Imports from the U.S.	28	35	44

The above statistics are in US\$ millions and are unofficial estimates.

The telecommunications sector (including equipment, services, and related sectors) is one of the top priorities for development by the Vietnamese government. Vietnam currently has about 10 million telephone subscribers, an increase of 46 percent from 2003. According to Vietnam Posts and Telematics (VNPT), telephone access is currently available to 97 percent of communities in the country, with a teledensity of 12 lines/100 inhabitants. The cellular phone penetration rate is currently about 3.6 subscribers per 100 inhabitants. In 2004, some 3 million new cell phone subscribers were added in Vietnam, an increase of 70% from the previous year.

By the end of 2004, the number of Internet subscribers in Vietnam stood at 2,012,926, with an estimated 6,139,424 people or 7.44 percent of the population using the Internet regularly. It is predicted that by 2010 at least 30 percent of the population will be able to access telecommunications and/or the internet.

In 2004, the country's international bandwidth increased to 1,892 Mbps. Last year, VNPT introduced a Next Generation Network (NGN) to provide a number of new services, such as: 1719, 1800, 1900, MegaWAN, VPN. Competition among mobile network operators in Vietnam is intensifying, as more players enter the market. Viettel, a mobile network operator owned by the Vietnamese military, recently launched a GSM mobile network and offers comparatively lower subscription fees, billing its customers in six-second increments. Vietnam Power Telecom ("VP Telecom"), a company under the

Ministry of Industry, recently ran a trial operation of a new mobile network using CDMA technology. This will be the second CDMA-based network, in addition to the current one operated by Saigon Postel (SPT) and South Korean consortium, SLD Telecom. SPT recently received approval to provide fixed-line service throughout the country and Vietnam Airlines is now licensed to provide INMARSAT mobile telecom services to its passengers.

## Opportunities

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Vietnam is hoping for considerable transfer of technology and know-how from foreign involvement in the telecom sector, although the market is likely to open at a gradual pace in line with Vietnam's commitments under the Bilateral Trade Agreement. Under the BTA, U.S. companies can now establish up to a 50 percent equity joint-venture to provide value-added services, including Internet services as of December 2004. Starting in December 2005, U.S. companies can establish joint-ventures with up to 49 equity ownership to provide basic telecommunications services. However, joint ventures may not construct their own long-distance and international circuits, but must lease them from Vietnamese operators. U.S. companies can establish a up to 49 percent equity joint-venture with Vietnamese partners to provide voice telephone services beginning in December 2007.

The major end-users for the telecom equipment and services are the "big-six" of Vietnam's telecommunications industry:

- 1) Vietnam Posts and Telecommunications Corporation (VNPT)
- 2) Military Electronics Telecommunications Company (Viettel)
- 3) Saigon Post and Telecommunications Joint Stock Company (Saigon Postel or SPT)
- 4) Maritime Communication and Electronics Company (Vishipel)
- 5) Vietnam Power Telecom Company
- 6) Hanoi Telecom Joint Stock Company (Hanoi Telecom)

Among these, VNPT is still the dominant player over most areas of Vietnam's telecom sector.

## Best Products and Services

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American suppliers will find tremendous opportunities in almost every sub-sector, from equipment for telecom infrastructure to many value-added services

## Resources

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- **Nguyen Hoa, Commercial Specialist**  
U.S. Commercial Service  
U.S. Consulate General in Ho Chi Minh City  
E-mail: [nguyen.hoa@mail.doc.gov](mailto:nguyen.hoa@mail.doc.gov)
- **Nguyen Dzung, Commercial Specialist**  
U.S. Commercial Service  
U.S. Embassy in Hanoi  
E-mail: [nguyen.dzung@mail.doc.gov](mailto:nguyen.dzung@mail.doc.gov)

- **Vietnam's Ministry of Posts and Telematics**  
www.mpt.gov.vn
- **Vietnam Post & Telecommunications Corporation**  
www.vnpt.com.vn

### 3. Oil and Gas Machinery and Services

#### Overview

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Oil and Gas Field Machinery and Services	2002 (actual)	2003 (actual)	2004 (estimated)
Total Market Size	950	900	920
Total Local Production	440	415	420
Total Exports	0	0	0
Total Imports	510	485	500
Imports from the U.S.	145	140	145

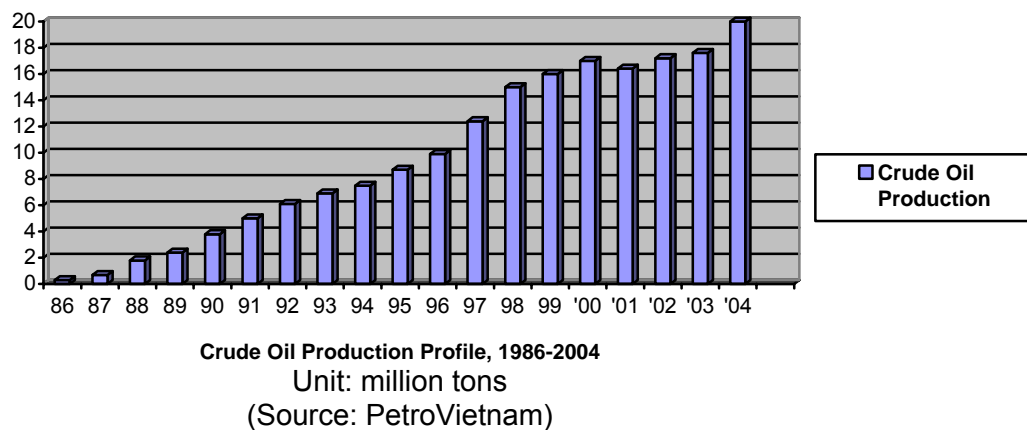
The above statistics are in US\$ millions and are unofficial estimates.

The rapid expansion of the Vietnamese economy has fueled a surging demand for energy which is projected to grow at the rate of over 10% annually. To meet this need for energy, the Vietnamese government is encouraging investment from both local and foreign sources in offshore oil and gas exploration and production. It is estimated that an investment of about \$11 billion will be required for the development of offshore activities during the period 2001- 2010. To date, exploration rights for only 25-30% of the country's continental shelf with hydrocarbon potential have been awarded to over 50 foreign oil and gas companies, with a total investment of about \$4 billion. The remaining areas (70-75%), generally with water depths of 200 meters or more, are unexplored and open for new bidding.

PetroVietnam (PV), the national oil and gas monopoly, on behalf of the Vietnamese government, is empowered to make decisions on strategies, plans and policies for the development of the industry, including cooperation with foreign entities, signing petroleum contracts as well as implementing, monitoring, inspecting and supervising petroleum activities. PV is also a business partner with foreign companies in the oil and gas sector. Any oil and gas exploration and production activities by foreign entities in Vietnam are subject to cooperation with PV.

Vietnam is ranked third in Southeast Asia after Indonesia and Malaysia in terms of petroleum resources. Oil and gas have been found in almost 50 fields, with estimated reserves of approximately 600 million tons of crude oil and 644 billion cubic meters (bcm) (23 trillion cubic feet -Tcf) of gas. Among the 50 structures that proven oil and gas reserves, 20 commercial fields have been developed. At present, eight oil fields are producing crude oil at an average volume of 450,000 barrels per day including a new oil field (Golden Lion) which began producing last year. Besides crude oil, the country also produces associated and natural gas from several fields with a volume of 3.45 billion cubic meters (bcm) in 2003. Production was expected to reach 6.25 bcm in 2004.

In the downstream area, PV is contemplating development of two oil refineries; the Dung Quat facility with a planned capacity of 6.5 million tons per year and an estimated total investment of \$1.5 – 1.7 billion; and the Nghi Son refinery (7 million tons, \$3 billion in investment). According to many industry experts, the decisions to build these two facilities have been taken based largely on political considerations, leaving the implementation of these projects seriously delayed due to questions regarding their commercial viability. It is expected, however, that the Dung Quat could be operational in 2008, while the Nghi Son's schedule is undetermined. Moreover, PV is also studying the possibility of constructing a third refinery, probably located in Vung Tau, close to both the currently producing oil fields and the major market. Many believe that this is the most commercially viable project. The development of the third refinery is, however, being held back by PV so as not to compete with the other two projects.



## Best Products and Services

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Vietnam's expanding offshore exploration and production has created a steadily growing market for offshore oil and gas equipment and services, which was estimated at \$920 million in 2004. American equipment and services have captured about 15% of the market and this share is expected to expand over the next few years. In the local market, American companies are well known as the world leaders for advanced technologies, quality, and in-depth experience in the offshore oil and gas sector. These U.S. firms are currently the most successful in the oil and gas sector in the country.

In general, U.S. suppliers of oil and gas equipment and services are quite competitive in the upstream and midstream sub-sectors where advanced technologies and reliable quality are strictly required. Sales opportunities are promising in the following areas:

- 3-D Seismic Survey Equipment
- Blowout Preventers
- Buildings
- Chemicals
- Computer and Wireless Technologies
- Corrosion and Abrasion Control

- Cranes, Hoists, and Winches
- Deep-Sea Drilling Services
- Enhanced Recovery Equipment Services
- Fishing Tools
- Instruments and Control Systems
- Logging and Formation Evaluation
- Marine Equipment and Services
- Offshore Engineering & Design Services
- Offshore Platforms (Fixed and Floating)
- Offshore technology licensing
- Perforating and Testing Services
- Pollution, Oil Spill Control, and Environmental
- Power Supply, Engines, and Turbines
- Process Equipment
- Production Equipment and Services
- Project management services
- Pumps and Compressors
- Ropes, Wire Ropes, and Chains
- Rubber Products
- Software Engineering Services & Equipment
- Tools
- Tubulars and Piping
- Valves and Actuators
- Wellhead Assemblies
- Well-Completion Equipment & Services

## Opportunities

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American companies will find significant opportunities for exporting their equipment and services to Vietnam in more than 25 ongoing offshore oil and gas exploration and production projects, as well as several gas pipeline projects. The number of projects is likely to increase substantially over the next few years as PV awards new oil and gas blocks to foreign oil and gas companies.

## Resources

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For more information, please contact the following addresses or visit the following websites:

- **Le Son, Commercial Specialist**  
 U.S. Commercial Service  
 U.S. Consulate General in Ho Chi Minh City  
 E-mail: [Le.Son@mail.doc.gov](mailto:Le.Son@mail.doc.gov)  
[www.buyusa.gov/vietnam](http://www.buyusa.gov/vietnam)

- **Ha Ngoc Anh, Commercial Specialist**  
U.S. Commercial Service  
U.S. Embassy in Hanoi  
E-mail: [Ha.Anh@mail.doc.gov](mailto:Ha.Anh@mail.doc.gov)  
[www.buyusa.gov/vietnam](http://www.buyusa.gov/vietnam)
- **Vietnam Oil and Gas Corporation (Petrovietnam)**  
22 Ngo Quyen Street  
Hoan Kiem District  
Hanoi, Vietnam  
Phone: 84-4-825-2526, Fax: 84-4-826-5942  
E-mail: [pic@hn.vnn.vn](mailto:pic@hn.vnn.vn)  
Website: [www.petrovietnam.com.vn](http://www.petrovietnam.com.vn)

The largest trade show in the oil and gas industry in Vietnam is the Vietnam Oil & Gas Expo co-organized by CP Exhibition (Hong Kong) and PetroVietnam. This show is held every two years in Hanoi or HCMC. In 2004, the show was held at the HCMC International Exhibition & Convention Center (HIECC) from October 27 to 29 with the participation of about 128 exhibitors from 19 countries showcasing equipment and services for the upstream, midstream and downstream for the oil and gas industry. For more details, please visit: [www.cpexhibition.com/vnoffshore](http://www.cpexhibition.com/vnoffshore). The date for the Vietnam Oil & Gas Expo 2006 has not yet been selected by the organizers at the time of this report.

#### 4. Power Generation, Transmission and Distribution

##### Overview

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	2002	2003	2004 (estimated)
Total Market Size	1,180	1,670	1,920
Total Local Production	212	334	384
Total Exports	N/A	N/A	N/A
Total Imports	968	1,336	1,536
Imports from the U.S.	55	65	80

##### Remarks:

- \* The above statistics are in US \$ millions and are unofficial estimates
- \* Total Market equals Imports Plus Local Production minus Exports

The power sector represents one of the most promising areas for U.S. commercial prospects in Vietnam. While the Government of Vietnam is seeking to encourage foreign investment in this sector, electric power, generation, transmission and distribution remains largely under the control of Electricity of Vietnam (EVN), a state-owned monopoly with 52 subsidiaries, which is in turn overseen by the Ministry of Industry (Mol).

According to Mol, Vietnam's estimated demand for electricity from now to the year 2010 will grow annually at the rate of 12-15 percent. Economic expansion, rising living standards, increasing consumerism, extensive industrialization, and Vietnam's plan to increase the electrification rate in rural areas from the current 77.4 percent to nearly 100 percent by 2010 have fueled this growth.

In 2003, the total power output increased from 35.6 billion kWh (2002) to 41.0 billion kWh, generated primarily by 28 major power plants with a total capacity of 10,800 MW. As of September 2004, 98% of provinces, 94% of communes and 87% of households in the rural areas had access to the national power grid. The total power loss rate in the industry is estimated at 14.2 percent. EVN is striving to improve its efficiency by reducing the total power loss rate to 13 percent in 2005, 10 percent in 2010 and 8 percent in 2020.

In the period 2000-2004, EVN constructed 15 major power plants. A dozen other small and medium-sized hydro power plants were also constructed under various joint venture/joint stock/BOT forms. As of end of year 2004, the total designed output capacity of Vietnam's electric power industry reached 11,197 mW, of which 9,868 mW was generated by EVN. Approximately 200,000 km of high and low voltage grids with sub stations of 51.655 MVA were constructed in this period as well. As of November 2004, the electric output supplied for Vietnam's economy was 44 billion kWh, with EVN hoping to generate 53 billion kWh in 2005.

According to the Vietnamese Government's Power Development Master Plan V, to meet the growing demand for power estimated at 49-53 billion kWh in 2005, 89-93 billion kWh in 2010, and 160-220 billion kWh in 2020, an investment of \$19-20 billion from 2006-2010 will be needed. Achieving this goal would require development of approximately from 32 to 37 new power generation projects, totaling 12,400 MW in capacity. Including up to 20 hydroelectric plants with 4,000 MW in generating capacity; eight gas or oil power plants (5,200 MW), and seven coal-fired plants (3,200 MW). Implementation of these projects would also require construction of about 15,000 km of 110 – 500kV transmission lines, together with 300,000 km of low medium and low voltage distribution lines.

While Vietnamese Government plans for developing the power sector are quite ambitious, firms seeking opportunities in this sector should be aware that implementation has lagged on a number of projects. Lengthy delays in tendering and selections procedures for contract awards on a number of projects have frustrated firms seeking opportunities in the power sector.

The primary sources of finance for investment in the power sector are from Official Development Assistance (ODA) grants and loans committed by such international donors as the World Bank (WB), Asian Development Bank (ADB), bilateral funds from various foreign governments, and funds from the Vietnamese Government. Other crucial sources of finance over the next decade include foreign suppliers' credits and EVN's retained earnings. Recently, local commercial banks have been active in providing finance for power generation projects developed by EVN and other state-owned enterprises.

Vietnam's current financial capability only meets 30% of the required total investment capital for the power sector. To attract the necessary capital, the power generation

sector will be opened to foreign and domestic investors to develop Independent Power Producers' (IPP) projects under various forms of investment such as Build-Operate-Transfer (BOT), Build-Transfer (BT), Build-Transfer-Operate (BTO), Joint Stock Companies, and Joint Ventures (JVs). IPPs currently generate only about 6.9 percent of total power supply output. The Government has decided to allow up to 35-40 percent of the national total generation capacity to be in the hands of IPPs, among which foreign owned plants are permitted to generate at most 20 percent. This program of liberalization could present significant sales and investment opportunities for U.S. companies. However, implementation of is expected to progress slowly.

## Best Products/Services

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The power generation market may be divided into five main segments: (1) project management, consulting and engineering services, (2) installation and construction services, (3) machinery, equipment and materials, (4) supply of equipment, spare parts, materials, consumables, and overhaul and maintenance services (aftermarket), and (5) investment in new IPP power projects in the form of BOT, BT, BTO and JV.

The power transmission and distribution market may be divided into four main areas: (1) project management, consulting, and engineering services, (2) installation and construction services, (3) high, medium, and low voltage electrical equipment for the national grid, and (4) medium and low voltage electrical equipment for industrial, institutional and household users. The national grid is, by far, the largest sector. U.S. firms are most competitive in the following product and service categories:

- Consulting and engineering services for high tension power transmission projects.
- Electrical equipment such as capacitors, circuit switches, switchgears, insulators, etc.
- Electrical protection equipment such as surge arresters, fuse cutouts, circuit breakers, reclosers, etc.
- Electrical testing, calibration equipment, and instruments.
- Pole line hardware for high-tension transmission lines.

## Opportunities

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Competition in Vietnam's power sector is fierce, with companies from Japan, Germany, Sweden, Switzerland, China, Russia and Britain among the most active. However, Vietnam favors a diversity of foreign supplier relationships in its approach to working with vendors, thus U.S. firms have a good opportunity to compete for supplier contracts. While the competition from international rivals is strong, American firms are highly respected for their quality and advanced technologies in the power industry. Interested U.S. firms should also contact U.S. government financing and insurance agencies such as Trade Development Agency (TDA), Overseas Private Investment Corporation (OPIC), and Export-Import Bank (EXIM) to enhance their competitiveness.

## Resources

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The following web sites might be valuable resources of information for U.S. companies interested in exploring business development opportunities in Vietnam's electric power industry.

Electricity of Vietnam Corporation (EVN)

<http://www.evn.com.vn>

Ministry of Industry (MOI)

<http://www.moi.gov.vn>

## 5. Airport and Ground Support Equipment

### Overview

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Airport and Ground Support Equipment	2002 (actual)	2003 (actual)	2004 (estimated)
Total Market	12	14	18
Local Production	0	0	0
Total Exports	0	0	0
Total Imports	12	14	18
Imports from the U.S.	6	8	10

The above statistics are in US\$ millions and are unofficial estimates.

Aviation is one of the top priority sectors for development by the Vietnamese government since it is viewed as a prerequisite to rapid national economic growth. The aviation industry in Vietnam comes under the principal jurisdiction and management of the Civil Aviation Administration of Vietnam (CAAV), a government agency reporting to the Ministry of Transport.

According to CAAV, the aviation sector is expected to grow about 10%-15% annually and the total air passenger traffic may reach 17.5 million by 2010. In 2004, passenger traffic reached 12 million respectively, about a 12.3% year-on-year increase, while the total transported air cargo rose 17.1% in comparison to 2003. This rapidly growing demand has required the development of new infrastructure at local airports.

Vietnam currently operates a network of 17 civil airports among which there are three international gateways, Noi Bai in the north, Danang in the center and Tan Son Nhat in the south. Tan Son Nhat, with a current capacity of five million passengers per year, is the largest airport in the country, handling about 60-70% of the Vietnam's international passenger traffic.

The Vietnamese government is seeking to open its aviation sector to foreign carriers. The liberalization process, however, will proceed cautiously in several steps, given the perceived weakness of the domestic air transport industry. The government will phase in each step in accordance with its regional and international trade commitments and relationships, i.e., CLMV (Cambodia, Laos, Burma, Vietnam) – ASEAN – APEC – WTO.

At present, Vietnam has signed bilateral aviation agreements with more than 50 nations and territories. In 2004, a milestone in the aviation sector was achieved with the signing of the U.S – Vietnam Aviation Agreement, which led the way for direct passenger and cargo flights between the two countries. United Airlines inaugurated its direct daily service between Ho Chi Minh City and San Francisco via Hong Kong in December 2004.

## Opportunities

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According to CAAV's development plan through the year 2010, CAAV will focus its resources on building/upgrading key international airports as well as upgrading several provincial ones. CAAV has identified four major international airport projects for development through 2010 including:

- **Tan Son Nhat International Airport**

The construction of a \$219 million new international terminal was started in August 2004 by a consortium of four Japanese contractors including Kajima, Tasei, Obayashi and Maeda. The project is expected to be operational by the end of 2006, capable of handling eight million passengers per year. As this project is financed by the Japanese Government, the majority of equipment and services for the new terminal will be sourced from Japan, but there are still opportunities for American suppliers at certain kinds of equipment and services which Japanese manufacturers do not normally supply.

- **Danang International Airport**

The Danang Airport is crucial to the development of the central region of Vietnam and the government has planned to construct a new international terminal capable of handling six million passengers per year. The feasibility study (F/S) for this project, partially sponsored by the U.S. Trade & Development Agency (TDA), was completed by PriceWaterhouseCoopers (PWC), a U.S. consulting firm, and has been approved by the government. The first phase of this project is estimated to cost \$75 million and will increase passenger capacity to four million per year. Of which \$48 million of the total investment for the first phase will be funded from the government budget. This fund will mainly be spent on construction works normally awarded to local contractors. The remaining \$27 million is slated to come from a local commercial bank and will be used to acquire necessary equipment for the new terminal. The selection of technical design and construction management consultants for this project is expected to be announced in the first quarter of 2005. In addition, CAAV also plans to select a foreign company as a main contractor for this project some time in 2005. The complete project capable of handling six million passengers per year is expected to be finished by 2010 and will require a total investment of \$160 million.

- **Chu Lai Cargo Airport**

CAAV is planning to rebuild the existing Chu Lai airport into a main air cargo hub serving the Chu Lai Open Economic Zone. Neither a specific schedule nor estimated investment, however, are available at present.

- **Noi Bai International Airport**

The \$76-million T1 passenger terminal, capable of handling 4 million passengers per year at the Noi Bai airport, was completed in September 2001. A new 3,800-meter parallel runway was completed at the end 2003. At present, CAAV is planning to build a \$23 million second terminal to increase the capacity of this airport to 6 million passengers per year by 2010.

- **Long Thanh International Airport**

Studies have indicated that the Tan Son Nhat airport will reach its allowable saturation level during the period 2010 – 2012 (10 – 12 million passengers as forecasted). For the long-term, these studies have concluded that Tan Son Nhat International Airport is not suitable as the main airport serving such a large metropolitan area. As a result, CAAV has proposed a new international airport to be located in Long Thanh, Dong Nai province, about 70 km from Ho Chi Minh City. The long-term plan is to develop four (4) runways and a terminal complex with a design capacity of 70 to 100 million passengers per year, making it one of the largest airports in Southeast Asia. The CAAV plans for the construction of the first phase (most likely two runways and a terminal) to be implemented around the end of this decade. The Government's initial estimate of the total investment cost is about \$4.5 billion. In early 2005, CAAV is seeking funding for developing a feasibility study for this project.

## Best Products and Services

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American companies are highly respected in Vietnam as the world's leading equipment manufacturers and service providers in the aviation sector in terms of advanced technologies, quality, and professionalism. In the above airport projects, American companies will find significant opportunities for providing architectural & technical design services, engineering and construction services, and construction management services. In addition, over the last few years American firms have sold a great deal of airport ground support equipment (GSE) as well as equipment for passenger terminals, especially in the southern and center regions of the country.

## Resources

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To enter the market, U.S. equipment suppliers and service providers are well advised to register their interest and capabilities with the appropriate agencies, particularly CAAV and its subsidiaries. The Commercial Service Offices in Vietnam should be contacted for assistance in the registration process and the selection of reputable local firms for collaborative arrangements. Interested U.S. firms are urged to consider establishing joint ventures or other forms of strategic alliances with local companies in pursuing their projects in Vietnam. For more information, please contact the following addresses or visit the following websites:

- **Le Son, Commercial Specialist**

U.S. Commercial Service

U.S. Consulate General in Ho Chi Minh City

E-mail: [Le.Son@mail.doc.gov](mailto:Le.Son@mail.doc.gov)

[www.buyusa.gov/vietnam](http://www.buyusa.gov/vietnam)

- **Ha Ngoc Anh, Commercial Specialist**  
U.S. Commercial Service  
U.S. Embassy in Hanoi  
E-mail: [Ha.Anh@mail.doc.gov](mailto:Ha.Anh@mail.doc.gov)  
[www.buyusa.gov/vietnam](http://www.buyusa.gov/vietnam)

## 6. Medical Equipment

### Overview

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	2002 (actual)	2003 (actual)	2004 (estimated)
Total Market Size	168.0	183.0	193.5
Total Local Production	2.0	3.0	3.5
Total Exports	0	0	0
Total Imports	166.0	180.0	190.0
Imports from the U.S.	33.2	40.5	47.0

*The above statistics are in US\$ millions and are unofficial estimates.*

The Vietnam medical equipment industry is generally underdeveloped despite government's effort to upgrade the healthcare system's facilities. A large population (82 million), growing fairly rapidly, is prompting greater demand for healthcare services. The demographic trends fueling greater healthcare needs are being supplemented by robust Vietnamese economic growth (7-8% annually), allowing greater financial resources to be used to fund health care service improvements.

Experts have warned that Vietnam's health system will not be able to cope with rising demand for services unless it receives substantial government and private investment. World Bank statistics suggest that the national health budget accounts for only 1.5 percent of GDP and 5.1 percent of the State budget. Such a small allocation has hardly made a dent in the demand to upgrade existing facilities.

In 2002, there were 917 hospitals and 122,412 beds in the Vietnam. These figures rose to 1,028 and 126,772, respectively, in 2004. Hospitals in Vietnam are generally overcrowded, with a bed utilization rate of 17.0 per 10,000 inhabitants (according to the World Bank). The Ministry of Health (MOH) controls 18 percent of the Vietnam's hospitals. The Provincial Departments of Health manage and operate 270 provincial hospitals. The remaining are district hospitals, which fall under the jurisdiction of the local district governments.

Besides the MOH, the Ministry of Police (MOP), Ministry of Defense (MOD) and Ministry of Labor, Invalids and Social Affairs (MOLISA) also own hospitals. Currently there are over 30 hospitals belonging to these three ministries, averaging 400 to 500 beds per hospital.

## Best Products/Services

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Vietnam's market for healthcare products grew by an estimated 10 percent in 2004. Local production of medical devices in Vietnam is limited to less sophisticated devices, including reagents, simple disposable test kits, disposable syringes, artificial limbs, orthopedic accessories, and hospital furniture. About 90 percent of products used in this sector are imported. There is a strong potential to increase the U.S. share in this sector, which is a small but growing market. Healthcare devices and accessories from the United States are very well received and account for 25 percent of total imports. Most international manufacturers of medical devices are represented in the market. Major competitors come from Japan, Germany, and Europe.

Best sales prospects of medical equipment include Imaging equipment (X-ray, ultrasound, internal probing); emergency equipment; laboratory equipment; operating theaters and sterilizing equipment; and ambulance equipment.

## Opportunities

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Vietnam's Ministry of Health (MOH) has launched an ambitious strategy to upgrade healthcare by the year 2010, to equip health care units at every level throughout the country. Investment in the health care sector is projected to increase 50 per cent from 2004 levels, with these expenditures focused mainly on upgrading local district medical networks and provincial hospitals, and to provide people in remote rural areas wider access to medical care. From 2005 to 2010, the government will spend about \$1.8 billion to build 57 new hospitals, of which over \$1 billion will be used to purchase medical equipment.

A more open policy toward private-sector and foreign involvement in the healthcare sector is also spurring development of privately-owned hospitals. Although private facilities are typically out of reach to all but the wealthier Vietnamese, the number of private hospitals has grown from 6 in 1999 to 30 in 2004, each has around \$2 million in invested capital. These private facilities appear more open to purchasing new equipment and employing advanced techniques that will allow them to differentiate themselves in the market.

The Vietnamese Government is seeking to encourage foreign investment into the healthcare sector. Incentives are being offered for construction of hospitals and production of pharmaceuticals and medical equipment. Low taxes are applied to imports of medical equipment.

Since most medical institutions in Vietnam are non-profit organizations, commercial loans and other credits are not widely available. Most medical equipment is purchased utilizing financial support from two primary sources: 1) the central government budget through the Ministry of Health, and provincial budgets (20%); and 2) foreign aid, especially from NGOs and multilateral donors (80%).

## Resources

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Information on Vietnam's healthcare system and projects are available at the following websites:

Vietnam's Ministry of Health: [www.moh.gov.vn](http://www.moh.gov.vn)

The World Bank: [www.worldbank.org/vn](http://www.worldbank.org/vn)

The ADB: <http://www.adb.org/VietNam/projects.asp>

## 7. Safety and Security Equipment

### Overview

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	2002	2003	2004 (estimated)
Total Market Size	62.5	64	67
Total Local Production	3	4	5
Total Exports	0	0	0
Total Imports	59.5	60	62
Imports from the U.S.	10	14	16

*The above statistics are in US\$ million and are unofficial estimates.*

The total market size of Vietnam's safety and security equipment market was estimated to be \$67 million in 2004, of which 60 percent consisted of safety equipment and 40 percent of security equipment. The market is experiencing a growing demand in commercial sectors such as construction, commercial and residential buildings, banks, municipal fire prevention and fire fighting, maritime facilities, and at airport facilities. The demand for safety and security equipment in Vietnam is tied to the development of foreign-invested construction and property projects. The current growth of foreign businesses and of government spending on infrastructure in Vietnam has stimulated the safety and security equipment market. Security equipment import taxes range from 0% - 40%, depending on the components and the manner in which the components and systems are imported into Vietnam. Building-related equipment and systems with foreign investor's capital contribution can be imported duty free. The Government monitors the sector under Decree 14/2001/ND-CP which rules that foreign organizations are not allowed to provide security services. They are, however, permitted to produce and repair equipment and tools used for security purposes. The import or export of security equipment requires approval from the Ministry of Public Security.

### Best Products/Services

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U.S. suppliers of safety and security equipment have seen increasing opportunities in Vietnam in past few years. Although demand for safety and security equipment from the commercial sector such as buildings, housing and hotels have increased modestly, the demand from the industrial sector and infrastructure developments has increased rapidly. Specifically, there is increasing demand for specialized foam, CO2 and inert gas suppression systems and gas detection systems from industrial and infrastructure projects such as power generation plants, oil and gas processing plants and airports.

There are gradually increasing opportunities for U.S. suppliers to provide sprinkler heads, sensors, hose/reels and break glass alarms. U.S. companies have also been successful supplying control panels, fire extinguishers, hydrants, and pumps to oil and gas operations as well as several power plants and airport projects in Vietnam.

## Opportunities

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Primary sales of safety and security equipment have occurred in the construction market, where development of transport (roads and bridges), power (thermal and hydro), oil and gas (plant and pipeline), environment (water drainage), and buildings (hotels and commercial sites) has outpaced other types of development projects. Foreign development companies have been the predominant buyers.

Fire fighting and fire protection equipment is in big demand, especially after a tragic fire with high casualties at a shopping center in Ho Chi Minh City in late 2002. More than 95 percent of Vietnam's security safety equipment/systems are imports since the supply of domestic equipment by local companies is limited. Local manufacturers currently produce only low-end items such as locks, safes, safety gloves and ropes.

Competition in this sector is intense. Major suppliers include Japan, England, South Korea, Malaysia, Singapore, China, and Taiwan. In general, U.S. companies will find greater success in the high-end commercial and residential market, including foreign-invested enterprises since they are much less price-sensitive and prefer the brand name recognition and quality of American safety and security equipment and services.

## Resources

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For further information, please contact the following persons:

1. Ms. Ngo Minh PHUONG

US Commercial Service Hanoi - US Embassy  
6 Ngoc Khanh St, 3<sup>rd</sup> Floor, Hanoi, Vietnam  
Tel: (844) 831-4650; Fax: (844) 831-4540  
E-mail: [Ngo.Phuong@mail.doc.gov](mailto:Ngo.Phuong@mail.doc.gov)

2. Ms. Vo Mac THUY

US Commercial Service Ho Chi Minh City - US Embassy  
65 Le Loi Blvd, Dist 1, HCMC, Vietnam  
Tel: (848) 825-0490; Fax: (848) 825-0491  
E-mail: [Vo.Thuye@mail.doc.gov](mailto:Vo.Thuye@mail.doc.gov)

3. Ministry of Public Security

44 Yet Kieu St, Hanoi, Vietnam  
Tel: (844) 822-6602/942-0223

## 8. Education and Training

### Overview

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	2002 (actual)	2003 (actual)	2004 (estimated)
Total Market Size	55.0	62.0	69.0
Total Local Production	28.0	30.0	32.0
Total Exports	0	0	0
Total Imports	27.0	32.0	37.0
Imports from the U.S.	7.0	10.0	13.0

*The above statistics are in US\$ million and are unofficial estimates.*

Significant demand for educational and training development currently exists in Vietnam. Strong industrial growth and expanding foreign investment is generating the need for a variety of workplace skills that currently do not exist in sufficient numbers. Creating a better-trained workforce will be a key pillar to Vietnam sustaining long-term economic growth and developing an internationally competitive workforce. To this end, over the last few years, the Vietnamese Government has increased budget allocations, liberalized private sector involvement, and encouraged foreign participation in developing education and training services in Vietnam. The Government has developed a long-term Education Development Strategy from 2001 to 2010, and estimates that the share of education expenditure needs to be increased to 6.9 percent of GDP and 20 percent of total government expenditure by 2010.

### Best Products/Services

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The best prospects for U.S. providers are English language training, vocational and technical training (including information technology and basic manufacturing skills), post-secondary education (including overseas study programs), and consulting services.

English has become the language of choice for Vietnamese in pursuit of better educational and career opportunities. State-owned institutions, public schools, and English learning centers are focused on upgrading both standard and specialized English courses. Schools and centers specializing in TOEFL and IELTS training for study abroad will find rapidly expanding markets in Vietnam's major cities.

With a large portion of the jobs needed in Vietnam's transitioning economy dependent upon the acquisition of technical skills, vocational education issues have taken on significant prominence. The demand for skilled workers and production technicians is already acute and will become ever more intense as the industrial and services sectors become the dominant provider of employment.

Post-secondary education is divided into two distinct types: foreign education programs established in Vietnam and overseas study. Both foreign education programs and study abroad have become important and popular elements of higher education in Vietnam

and are widely seen as the key to future success. There are an increasing number of students who are able to contribute significantly to funding their education, although scholarship programs remain important for many seeking overseas study opportunities. The Government has also been involved in implementing its own programs to foster the further study abroad of officials in an effort to raise the quality of public services.

## Opportunities

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A significant increase in per capita income in the past ten years, a booming private sector, and the traditional value Vietnamese place on education are creating significant opportunities for education and training services. The Ministry of Education and Training (MOET) has encouraged foreign educational businesses to become involved in the education and training sector, especially in the development of new disciplines such as information technology and environmental science, and other scientific fields that are not yet widely available in Vietnam.

A part of higher education that is growing quickly within Vietnam is the establishment of foreign education programs run either entirely by foreign universities or through cooperation between foreign and Vietnamese institutions. The sector received a large boost in 2000 with the enactment of Decree No. 06/2000/ND-CP, dated March 6, 2000, which provided incentives for foreign investment in several areas, including education and training. Foreign entities are encouraged to develop training programs for scientists, technicians, managers, and experts in economics, technology, natural sciences, the environment and culture.

The Government has identified vocational education as a major area for future investment and improvement over time. Under State targets, 30 percent of the country's workforce would ideally receive vocational training by 2005, and 40 percent by 2010. Priority will be given to training workers for high-tech fields such as information technology, biology, materials engineering and automation, as well as economic and social management. Foreign-invested companies with foreign curricula and teaching methodologies are very competitive as contracting clients for vocational training programs in Vietnam. There is also a major opportunity for firms that can provide customized workforce training for basic manufacturing facilities, such as those in the rapidly growing garment and footwear industries.

Investment in and development of information technology and E-Government sectors have received special attention from the highest levels of Vietnam's Government. In this regard, the Prime Minister issued Decision No.112 in 2001 approving a project on state administrative management computerization for the period 2001-2005. Vietnam's overall objectives for the project include organizing IT training courses for public servants to aid them in accessing and making use of new technology during the normal work routine.

Education and training consulting opportunities for U.S. firms stem mainly from Official Development Assistance (ODA)-financed projects, including World Bank and Asian Development Bank initiatives to upgrade the training, curriculum development, and equipment of the country's secondary and post-secondary education system.

Vietnam's education and training information and projects are available at the following major websites:

The World Bank: [www.worldbank.org/vn](http://www.worldbank.org/vn)

The Asian Development Bank: [www.adb.org/Vietnam](http://www.adb.org/Vietnam)

For further information, please contact the following persons:

1. Ms. Ngo Thuc Anh

U.S. Commercial Service Hanoi - American Embassy

6 Ngoc Khanh St, 3<sup>rd</sup> Floor, Hanoi, Vietnam

Tel: (844) 831-4650; Fax: (844) 831-4540

E-mail: [Ngo.Anh@mail.doc.gov](mailto:Ngo.Anh@mail.doc.gov)

2. Mr. Le Anh

U.S. Commercial Service Hochiminh City – U.S. Consulate General

65 Le Loi Blvd, Dist 1, HCMC, Vietnam

Tel: (848) 825-0490; Fax: (848) 825-0491

E-mail: [Le.Anh@mail.doc.gov](mailto:Le.Anh@mail.doc.gov)

## 9. Environmental Technologies/Pollution Control Equipment

	2002 (actual)	2003 (actual)	2004 (estimated)
Total Market Size	400	430	480
Total Local Production	270	275	290
Total Exports	0	0	0
Total Imports	130	155	190
Imports from the U.S.	12	13	15

\* The above statistics are in US\$ millions and are unofficial estimates.

\* Based on the total ODA funding of environmental projects underway and in the pipeline, as well as projects undertaken by urban and industrial entities including water resources funds.

As a result of rapid economic development, population growth, and urbanization, Vietnam faces serious environmental problems. In the year 2005, Vietnam's pollution "hot spots" include solid waste, water and air pollution, of which water pollution and solid waste treatment are the two biggest challenges for the Ministry of Natural Resources and Environment (MONRE). According to MONRE, Vietnam's environmental situation is deteriorating due to a lack of resources to deal with many of these problems.

## **Municipal Water Supply**

According to Vietnam's Ministry of Construction, only 200 of 689 cities provide clean drinking water through central municipal treatment plants. These potable water treatment plants have an average capacity of 500-3000m<sup>3</sup>/day. Two-thirds of the potable water derives from surface water and one-third is from underground water.

At the above production rates, only 60 percent of Vietnam's population has access to clean water. Meanwhile, the average rate of clean water leakage in urban areas is 36 percent and reaches 50 percent in some places. In order to improve the situation, the government issued a development plan for the national water supply with the objective of providing clean water for 80 percent of the population by the year 2010. The Vietnam Water Supply and Sewage Association (VWSA) estimates that the total investment for water supply projects will be more than \$2 billion for the next ten years.

## **Domestic wastewater**

Drainage and sewage problems also constitute a growing concern. Vietnam's rapid urbanization and industrialization over the last ten years have placed huge demands on its outdated and run-down sewage systems, most of which were constructed in the 19<sup>th</sup> century. Most drainage systems are for combined use, mixing rainwater runoff with untreated domestic wastewater. At present, none of the cities or provinces within the country has a centralized wastewater treatment plant.

## **Industrial wastewater**

Industrial wastewater is also having a major negative impact on the environment. For example, of 15 industrial estates in Ho Chi Minh City only five have central wastewater treatment plants, four are under design and the rest lack the resources to install their own wastewater treatment facilities. This has resulted in the direct discharge of untreated wastewater into the environment. This problem is drawing greater attention from both the government and private sector. City authorities have determined to relocate industrial polluters from the residential areas to regulated zones or industrial parks. To help local businesses with relocation efforts, financial assistance programs have been launched such as the Environmental Revolving Fund and the Development Assistance Fund. This will translate into more pollution control equipment investment in the upcoming years.

## **Solid waste**

### **Domestic solid waste**

Another environmental concern is the mass accumulation of solid waste in the country. According to the Ministry of Natural Resources and Environment, the average generation rate of solid waste is more than 20,000 tons per day throughout the country, of which 6,000 tons alone is generated in Ho Chi Minh City.

Presently, burying domestic solid waste at landfills is the only treatment method used in Vietnam. In Ho Chi Minh City, there are three landfills under operation and another is planned. However, only one of these three landfills has a treatment facility for wastewater leakage. The leachate from the other landfills is causing severe pollution to underground water in the surrounding area.

### **Hazardous solid waste from factories and hospitals**

Except for solid waste from hospitals that is collected and burned in a controlled environment, most industrial waste is still disposed together with domestic waste without proper treatment. Currently, there is no industrial waste management and control system in place in the Vietnam. Contamination from pesticides and agricultural chemical runoff is growing at alarmingly rate. Although the national budget and bilateral aid have been applied to address these problems, much more capital investment is needed.

### **Air pollution**

The government of Vietnam is beginning to more aggressively address air pollution. While the use of leaded gasoline has been prohibited in Vietnam since July 1, 2001, the increasing number of personal vehicles has decreased the quality of urban air. The location of industrial production facilities in or near urban population zones, such as the large number of coal-fired brick kilns which ring Hanoi, also contribute to air pollution problems.

### **Opportunities**

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Vietnam currently has a huge requirement for pollution control equipment, technology and services, thus American environmental companies will find numerous opportunities to export their products and services to Vietnam.

For example, due to serious pollution of the canal systems surrounding Ho Chi Minh City, major projects under construction or awaiting approval, or under study are as include:

- Nhieu Loc & Thi Nghe environmental sanitation project, investment capital of \$200 million supported by the World Bank
- Tan Hoa & Lo Gom canal improvement project has investment capital of \$388 million of which 74 percent is funded through international development assistance.
- HCMC Water Environment Improvement program, a \$295 million project.
- Tham Luong & Ben Cat canal project requires a capital investment of \$60million
- The Central Domestic Wastewater Treatment for Can Tho city has investment capital of \$14 million.

### **Resources**

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Information relating to environmental projects can be collected by working with the Ministry of Natural Resources and Environment / Division of Environment and the Environmental Protection Agency of every city.

Further information on environmental projects can be obtained from the U.S. Commercial Service in Ho Chi Minh City and Hanoi via the following addresses and website:

- Ms. Ngo Anh, Commercial Specialist  
US Commercial Service  
US Embassy in Hanoi  
Email: [ngo.anh@mail.doc.gov](mailto:ngo.anh@mail.doc.gov)  
Website: [www.buyusa.gov/vietnam](http://www.buyusa.gov/vietnam)
- Ms. Vo Thuy, Commercial Specialist  
US Commercial Service  
US Consulate General in Ho Chi Minh City  
Email: [vo.thuy@mail.doc.gov](mailto:vo.thuy@mail.doc.gov)  
Website: [www.buyusa.gov/vietnam](http://www.buyusa.gov/vietnam)

## 10. Packaging Equipment

### Overview

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Packaging Eq. Market	2002 (actual)	2003 (actual)	2004 (estimated)
Total Market Size	150	170	210
Total Local Production	4	6	7
Total Exports	0	0	0
Total Imports	146	164	203
Imports from the U.S.	4	5	8

*The above statistics are in US\$ millions and are unofficial estimates.*

Vietnam presently offers a strong combination of rapid growth, social stability and an excellent demographic profile that is fueling industrial production and consumer demand. These trends have led to packaging becoming one of the most rapidly developing industries in Vietnam. According to Vietnam Packaging Association (Vinpas), the packaging sector is growing at least 15% - 20% per year.

At present, Vietnam has more than 900 packaging manufacturers, about 70 percent of which are located in the southern part of the country. The market may be broken down into five major types: (1) plastic packaging; (2) cardboard/paper; (3) metal containers; (4) glass; and (5) others. The market share for packaging products is as follows:

Plastic packaging – 35%.

Card board and paper – 45%.

Metal containers – 10%.

Glass – 7%.

Others - 3%.

The packaging industry still imports 95 percent of raw materials and equipment used in this sector. Most of the companies in the sector have invested in average quality technology and equipment from Korea, China, Indonesia, and Taiwan. Some leading companies like Tan Tien Plastic Packaging and Liksin Corporation have imported more advanced equipment and systems from Western European countries. Most purchases of equipment are financed internally by packaging businesses. American packaging machinery and services currently have a market share of 2% - 4%, although this share should expand over the next few years.

## Best Products/Services

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American companies will find significant opportunities for providing machinery and services in the following packaging sub-sectors:

### Plastic Packaging

Currently, the plastic packaging sub-sector is growing rapidly. From a few small factories producing 18 million plastic packs each year in 1992, the sector now produces around one billion packs serving industries such as processed food, soft drinks, cooking oil, cosmetics and lubricants. This domestic production meets nearly 97 percent of the total market demand. Vietnam presently has 341 plastic packaging producers, of which 288 manufacturers are located in the South, 39 in the North and 14 in the Central region.

Plastic packaging is forecast to grow at an average rate of 15 percent per year and reach a capacity of 1,400,000 tons by 2010. With this average growth rate, most of the plastic packaging producers are making intensive investments in new machinery. Vietnamese food producers are now targeting the U.S market and thus they are interested in packaging that is suitable for U.S consumers. This in turn has created a demand for U.S. plastic packaging equipment. In particular, there is a good potential market for biodegradable plastic packaging in Vietnam. Until now there has been very little investment in this technology and there is no practical solution to the tons of used plastic packaging waste. Specifically, American companies will find sales opportunities in providing machinery and services for producing flexible packaging such as multi-layer packaging for food and confectioneries, dairy products, and personal care products, as well as polypropylene (PP) woven bags.

### Metal Packaging

Metal containers, mostly tinfoil packaging, comprises around ten percent of the packaging industry. Vietnam has only been producing metal containers for the past five years. There are about 30 metal container producers in Vietnam, most of which are in Ho Chi Minh City.

In the next three years, metal packaging is forecast to grow by seven to ten percent per year, and demand for equipment will increase by about three percent per year. This sub-sector provides a good opportunity for U.S suppliers of machinery producing multi-model metal packaging.

American companies will find significant opportunities for exporting their equipment and services to Vietnam in the sub-sectors identified above.

- **Ms. Nguyen Huong, Commercial Assistant**  
U.S. Commercial Service  
U.S. Consulate General in Ho Chi Minh City  
E-mail: [huong.nguyen@mail.doc.gov](mailto:huong.nguyen@mail.doc.gov)  
[www.buyusa.gov/vietnam](http://www.buyusa.gov/vietnam)
- **Ms. Ngo Anh, Commercial Specialist**  
U.S. Commercial Service  
U.S. Embassy in Hanoi  
E-mail: [ngo.anh@mail.doc.gov](mailto:ngo.anh@mail.doc.gov)  
[www.buyusa.gov/vietnam](http://www.buyusa.gov/vietnam)

## BEST PROSPECTS FOR AGRICULTURAL PRODUCTS

Agricultural trade with Vietnam is expanding but continues to be lopsided in favor of Vietnam. In the first 11 months of 2004, the United States exported a record \$179 million of agricultural, fish, and forestry products to Vietnam, while U.S. imports from Vietnam totaled \$878 million. Principal U.S. exports to Vietnam included cotton, hardwood lumber, dairy products, hides and skins, while the main U.S. imports from Vietnam during the same period were basa fish, shrimp, coffee, cashews, pepper, and rubber. The actual value of U.S. agricultural products entering Vietnam, however, may be twice the official value, resulting from transshipments through Singapore and Hong Kong, coupled with informal entry of products from neighboring countries.

U.S. agricultural export opportunities look bright in Vietnam, given the continued expansion in the country's furniture and textiles sectors, improvement in infrastructure, and a steady increase in the number supermarkets, hotels, and resorts.

Please contact FAS/Vietnam to obtain the most up-to-date information. Additional agricultural market reports can be found on the USDA/Foreign Agricultural Service's website at <http://www.fas.usda.gov>

### 1. Soybean Meal

Imports of soybean meal are expected to continue to increase in the future, due to limited local production of soybeans, expansion in the livestock and fish sector, and improved port infrastructure. With no significant commercial crushing facility in Vietnam, soybean meal imports will continue to be a necessity for the country's poultry, fish, and livestock sectors. There is no import duty for soybean meal.

Two new deep-water ports recently opened up in Vietnam: Cai Mep Interflour port on the Thi Vai river (50 kilometers from Ho Chi Minh City) and the port of Cai Lan, which serves the northern half of Vietnam. Unlike the port of Ho Chi Minh, these ports can handle panamax vessels (50,000 tons plus), which will result in freight costs for U.S. commodities shipped to Vietnam.

Marketing efforts in Vietnam are supported by the American Soybean Association (ASA) office in Hanoi.

#### Soybean Meal

Unit: 1,000 metric tons

	2001	2002	2003	2004 est.
Total Consumption	505	740	1,000	900
Total Local Production	20	20	20	20
Total Imports	483	719	990	889
Total Exports	0	0	0	0
Total Imports from the U.S.	15	7	25	11

*The above statistics are unofficial estimates*

### 2. Bulk Cotton

Vietnam has a rapidly growing and vibrant textile industry, mostly based on imported raw cotton or synthetic fiber. Textiles are one of Vietnam's top foreign exchange earners with over \$4.2 billion in export sales in 2004. Local cotton production, although expanding, meets only about 12-15 percent of total demand. The United States has been the leading cotton supplier to Vietnam for three consecutive years.

Marketing efforts are directed by the Cotton Council's International Regional Office in Hong Kong, and U.S. technical information is provided by Cotton Incorporated's Regional Office in Singapore.

#### Bulk Cotton

Unit: 1,000 unit

	2001	2002	2003	2004 est.
Total Consumption	108	120	130	135
Total Local Production	10	12	11	13
Total Import	103	111	88	125
Total Export	0	0	0	0
Total Import from the U.S.	28	28	34	65

*The above statistics are unofficial estimates*

*Current import duty for cotton lint is 0%*

### 3. Wheat and Wheat Flour

Vietnam is rapidly evolving from a wheat flour to a wheat grain market due to increased investments in new mills. Current milling capacity is estimated at two million metric tons per year. Prospects for U.S. wheat will improve through the expansion of grain handling

facilities and deep water ports to accommodate panamax (50,000 ton plus) vessels, thereby lowering unit cost of delivered grain.

Wheat marketing efforts are directed by the U.S. Wheat Associates Regional Office in Singapore.

#### Wheat

Unit: 1,000 metric tons

	2001	2002	2003	2004 est.
Total Consumption	745	855	915	810
Total Local Production	0	0	0	0
Total Imports	745	855	915	810
Total Exports	0	0	0	0
Total Imports from the U.S.	38	35	29	40

*The above statistics are unofficial estimates*

*Current import duty is 5% for wheat and 20% for wheat flour*

#### 4. Livestock Genetics

Vietnam has set ambitious goals for livestock production in an effort to raise per capita consumption of animal proteins in local diets and to develop an export sector. These efforts have been supported by foreign investment in commercial feed mills and livestock genetics. There is considerable interest in U.S. animal genetics to improve local breeds (especially swine, chickens, and dairy cows).

#### Live Animal

Total Herd Size (1,000 Head)- Note Herd Size	2001	2002	2003	2004 est.
Dairy Cows	38	54	79	96
Cattle	3,896	4,062	4,394	4,907
Swine	21,740	23,100	25,461	26,145
Chickens	215,800	233,064	254,057	218,152
Ducks	55,075	60,031	64,233	59,000
U.S. Live Animal Export (Thousand Dollars)	442	247	350	400

*The above statistics are unofficial estimates*

*Current import duty for breeding animal is 0% and 5% for other live animals*

#### 5. Fresh Fruit and Vegetables

According to unofficial data, Vietnam's 2003 imports of apple and table grapes totaled \$9 million and \$6 million, respectively. Vietnam also imports (and in some cases, exports) many other types of fruits and vegetables, however, official trade data is unavailable. While the U.S. marketshare for table grapes (50 percent) has remained stable in recent years, the marketshare for apples has fallen from 50 percent in 1994 to 20 percent last year, with China as the main beneficiary.

The Bilateral Trade Agreement between USA and Vietnam ( BTA) provided for a drop in the Vietnamese import duty for U.S. apples and table grapes and other fresh fruits 40 to

25 percent, effective December 31, 2004. This should give a boost to U.S. fresh fruit exports to Vietnam.

Marketing efforts are directed by the California Table Grape Commission's Vietnam office in Ho Chi Minh City, and by a newly-established representative for the (re-structured) Washington Apple Commission.

Note: Vietnamese trade data are not available.

#### 6. Snack Foods, Packaged Foods, Canned Foods

Rising incomes have resulted in a higher demand for a variety of imported consumer-ready food products. Canned foods (vegetables, juices, meat) are popular among retail consumers and hotel, restaurant, institutional (HRI) customers. Prospects will improve in line with the opening of new supermarkets, hotels, and resorts in Vietnam

Note: Vietnamese trade data are not available.

#### 7. Forest Products, Hardwood Lumber

Prospects are bright for U.S. exports of hardwood lumber and other forest products (logs and veneers, for example). American exports of hardwood lumber to Vietnam in 2004 reached a record \$22 million, a year-on year-increase of 100 percent, mostly white oak, poplar, ash, cherry, and birch for Vietnam's rapidly growing furniture market. Vietnam's market for imported hardwood lumber is expected to increase 20 percent annually over the next five years.

The American Hardwood Export Council (AHEC) directs marketing efforts in Vietnam; its regional office is located in Hong Kong.

Wood materials (lumbers and logs)

Unit: 1,000 USD

	2001	2002	2003	2004 est.
Total Consumption	NA	NA	NA	NA
Total Local Production	NA	NA	NA	NA
Total Imports	123.0	197.0	281.0	400.0
Total Exports	0.0	0.0	0.0	0.0
Total Imports from the U.S.	5.3	15.8	17.3	29.5

*The above statistics are unofficial estimate*

*Current import duty for lumber and logs is 0%*

#### 8. Beef and poultry meats

U.S. exports of boneless beef to Vietnam have resumed following a temporary ban by the Vietnamese government, resulting from one case of BSE discovered in the United States in late December 2003. In January 2005, the first shipment of U.S. boneless beef arrived Vietnam since the ban was imposed. The Vietnamese market for U.S. boneless beef is expected to recover from the ban and increase over the next few years.

U.S. exports of poultry cuts and whole turkeys to Vietnam are also expected to increase. Vietnamese consumers are placing a high value on imported chicken meat

from the United States, given the recent incidences of “bird flu” in Vietnam, which has caused uncertainty and a drop in domestic output and consumption over the past year.

The current import duty for beef meat and poultry meat is 20%.

Marketing efforts are directed by the U.S. Meat Export Federation (USMEF) and the USA Poultry and Egg Export Council (USAPEEC) regional offices in Singapore.

Note: Vietnamese trade data are not available.

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## Chapter 5: Trade Regulations and Standards

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### Import Tariffs

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Imports into Vietnam currently attract an average tariff of about 18%, high by global or regional standards. The Government of Vietnam is reducing tariffs in preparation for meeting its goals under AFTA (ASEAN Free Trade Area). It is also making comprehensive changes to its trade regime to meet its obligations under the U.S. Vietnam Bilateral Trade Agreement (BTA) and in preparation for accession to the World Trade Organization. However, there is still a concern that high trade barriers will be maintained in the next few years to protect certain sectors.

Trade Regime Developments: Streamlining the tariff structure is one remaining key trade liberalization issue. However, some of the government’s major obstacles stem from pressures to protect domestic industries and the potential loss of significant tax revenues. Approximately 20 percent of the national budget is provided by tariffs and taxes levied on imports. Nevertheless, Vietnam is committed to reducing or eliminating tariffs and other trade restrictions, since it is a requirement for its membership into AFTA, and if it is to realize its hopes for membership into the WTO. The United States-Vietnam Bilateral Trade Agreement came into force in December 2001. This agreement was a prerequisite to Vietnam gaining Normal Trade Relations (NTR) status. The bilateral trade agreement addresses various market access considerations, including both tariff and non-tariff barriers.

## **TARIFF RATES**

**Tariff Code:** In late 1998, the National Assembly of Vietnam issued a new Law to Amend the Import and Export Tariffs Law. This law was drawn up in accordance with the Harmonized Tariff System (1996 Version) to facilitate the country's global integration. The amended law, effective on 1 January 1999, contains more than 6,400 tariff lines.

Within the framework of AFTA, Vietnam has converted its 6-digit Harmonized Tariff System into an 8-digit system which is called ASEAN Harmonized Tariff Nomenclature (AHTN), and is based on the World Customs Organization's HS2K. The new system, took effect as of September 1, 2003 and contains 10,689 lines.

**Tariff Rates:** Under the current law, tariff bands are issued by the National Assembly and then detailed by the Ministry of Finance. Import duties are calculated on the basis of (1) the quantity of goods specified in the declaration, (2) dutiable value, and (3) applicable duty rates. Currently, there are three tariff rates for imported goods: ordinary tariffs, preferential tariffs (NTR), and special preferential tariffs. Ordinary tariffs apply to goods originating from countries that have not exchanged Normal Trade Relations (NTR) agreements with Vietnam. The preferential tariffs on the list apply to goods imported from countries or regions, which have NTR status with Vietnam. The special tariffs apply to goods imported from countries that have exchanged special preferential tariffs agreements with Vietnam. For instance, ASEAN members are entitled to special preferential tariff rates of 0-5 percent under the Common Effective Preferential Tariff (CEPT) Agreement (Vietnam is now in the transition period under the CEPT, and will fully implement the CEPT in 2006). Ordinary tariffs are 50 percent higher than preferential tariffs and can be increased or reduced as long as the margin does not exceed 70 percent of the preferential tariffs.

As of January 2, 2004, Vietnam began applying tariff rate quotas on tobacco, salt, cotton, milk, corn and eggs.

In addition to the above-mentioned tariff rates, Vietnam also reserves the right to utilize trade remedies such as antidumping and countervailing duties. Vietnam promulgated an ordinance on safeguards (which took effect in September 2002), an ordinance on anti-dumping (which took effect in October 2004), and an ordinance on countervailing duties (which took effect in January 2005). The Ministry of Trade recently established a new department with specific responsibility for trade remedies and competition policy.

Exemptions are granted if the goods fall into the following categories: (i) special goods for the purpose of national security and defense, science, education and training; (ii) specialized equipment, machinery and facilities for investment projects (both domestic and foreign); (iii) non-refundable aid, goods in transit, temporary imports and re-exports for exhibitions. Goods brought in for foreign-invested projects may qualify for exemption if they fall under five general categories: (1) equipment and machinery imported for the formation of the fixed assets of the project and spare parts and components attached thereto; (2) construction materials imported to build the fixed assets of the project that are not produced locally; (3) materials and supplies imported for the local manufacturer of the equipment and machinery included in the technological process of the projects; (4) specialized means of transport included in the technological process of the project or for

transportation of groups of employees (with 24 seats or more); and (5) technology transfer that is considered as capital contribution by the foreign partner.

The U.S.- Vietnam Bilateral Trade Agreement went into effect on December 10, 2001. It provides for MFN tariff rates for U.S. origin goods. Under commitments in Annex E of the Agreement, as of December 10, 2004, tariffs for U.S. goods were reduced from 35% to 26% for approximately 244 bound items, 80% of these tariff items are for agricultural goods while 20% are for industrial goods. These import tariffs will apply to commodities that have certificates of origins (C/O) from the US as well as other countries that have MFN status. Exceptions to MFN treatment include special treatment accorded other countries within a free-trade area, such as AFTA or NAFTA and special procedures for border trade.

### **C. OTHER TAXES**

Special Consumption Taxes: Other taxes include the special consumption taxes on goods such as cigarettes, alcohol, spirits and beer, automobiles with twenty-four seats or less, and other miscellaneous items such as gasoline, air conditioners with capacity of 90,000 BTU or less and playing cards. Special consumption taxes also apply for services such as dancing, massage, karaoke, casino, jackpot machine games, certain betting activities, and golf. The special consumption tax is applicable to the import and production of the previously mentioned goods and services. Importers pay the special sales tax upon importation, ranging from 10 to 80% percent. The tax is calculated on the basis of applying the applicable tax rate to the CIF value of the good.

In 2003, the Vietnam National Assembly passed a number of amendments and supplements to several of the articles of the Law on Special Consumption Tax. The amendments and supplements focus on taxable objects, taxable prices, tax rates, exemptions, special reductions, and enforcement. The amendment took effect on January 1, 2004.

Value Added Tax (VAT): VAT replaced the previous turnover tax, which was levied on a sliding scale from zero percent to twenty percent. Most sectors of the economy are likely to pay less under VAT. There are four rates of VAT: (i) zero percent for exported goods; (ii) five percent for the provision of essential goods and services (e.g. clean water, food stuff, medicine); (iii) standard rate of ten percent for activities such as power generation, mineral products, postal, and transportation services; and (iv) twenty percent for activities such as lottery and brokerage.

As of January 1, 2004, the amendments to VAT Law, which was passed by the National Assembly at its May 2003 sessions, took effect. The fundamental change is that the number of rates was reduced from four to three - zero percent, five percent, and ten percent.

Vietnam has been phasing out the use of quantitative restrictions on imports. An April 2001 Decision of the Prime Minister phased-out quantitative restrictions on imports with the exception of sugar (to be kept until 2005). A September 2003 Government Decision established conditions for importing and re-exporting petroleum. Trade in petroleum is

also subject to annual licensing and price regulation. The annual National Trade Estimates Report published by the United States Trade Representative presents a detailed description of impediments to entering the Vietnamese market. This report can be accessed at <http://ustr.gov>

#### Import Requirements and Documentation

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Authorized Importers: The role of authorized importers in the past few years has declined because of Government's Decree No. 57/1998/ND-CP, partly revised by Decree No. 44/2001/ND-CP, dated August 2, 2001. According to the Decree, Vietnamese traders are entitled to (i) export goods of all kinds, except goods on the list of those banned from export and (ii) import goods according to the business lines stated in their business registration certificates. Foreign-invested enterprises and business cooperation parties, apart from the exportation of their own products, may export goods of other kinds, except those on the list of goods banned from export and a number of goods categories prescribed by the Ministry of Trade. The goods imported by foreign-invested enterprises and business cooperation parties must comply with the provisions of their granted investment licenses, the Law on Foreign Investment in Vietnam and other relevant legal documents.

Import Licensing System: Business entities, including foreign invested enterprises with a legally registered business license, can be engaged in direct import and export activities. However, foreign invested enterprises can import materials, equipment and machinery only for the purpose of establishing production lines and producing goods in accordance with their investment licenses. They are not permitted to import goods for trading purposes and are required to register their import and export codes with the Department of Customs. Foreign invested companies are presently permitted to distribute products made by them and not products of their partners offshore.

Special Import/Export Requirements and Certifications: Previously, importers required approval from the relevant ministry(ies) to import many goods. This system was changed in 2001. Now, seven ministries and agencies are responsible for overseeing a system of minimum quality/performance standards for animal and plant protection, health safety, local network compatibility (in the case of telecommunications), money security, and cultural sensitivity. Goods that meet the minimum standards can be imported upon demand and in unlimited quantity and value.

#### U.S. Export Controls

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Exporters of dual-use and military equipment need to be aware of U.S. Government regulations affecting sales of certain equipment to Vietnam and to certain entities within Vietnam. Before initiating marketing activities in Vietnam involving such items or entities, firms should consult with appropriate U.S. Government agencies.

Further information with regard to export control matters can be obtained from the following organizations:

U.S. Department of Commerce, Bureau of Industry and Security (formerly the Bureau of Export Administration): <http://www.bxa.doc.gov>

## Temporary Entry

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Goods, which are exported or imported as samples or for the purpose of advertising, are subject to export or import duty. Exemption from duty is granted to goods, which are permitted to be temporary exports or imports for exhibitions. At the end of the exhibition, they must be re-imported into Vietnam in the case of temporary exports, or re-exported from Vietnam in the case of temporary imports. Documents required for exemption for exhibitions include a notification of or invitation to the exhibition and an export or import license from the Ministry of Trade for goods under quota by the government. Vietnam does not recognize the International Carnet.

## Labeling and Marking Requirements

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The Government's Decision No. 178-1999-QD-TTg dated August 30, 1999, promulgating Regulations on Labeling of Domestically Circulated Goods and Imported and Exported Goods ("Decision 178 and accompanying regulations"), came into effect January 1, 2001. Decision 178 and accompanying regulations provide the requirements for the labeling of goods produced in Vietnam for domestic circulation and for export, and of goods produced in foreign countries that are imported for sale in the Vietnamese market. These regulations do not apply to processed food, fresh food, or unpacked necessities that are sold directly to consumers and pre-packed food and drinks which have a use-by limit of 24 hours.

According to these regulations, subject goods must bear a label containing:

1. A principal display panel in which the following compulsory contents must be shown so that consumers can easily and clearly see them in a normal goods' display condition:

- name of goods;
- name and address of business entity manufacturing, assembling, or importing goods;
- amount, weight, volume, or size of the goods (in legal measurement units of Vietnam);
- composition or ingredients of goods (including whether goods or components/ingredients thereof have been x-rayed or genetically modified, where a preservative has been added, where a dosage has been stipulated, or where they are included in lists of stimulants or toxicants);
- usage values, human safety standards, and environmental impact on use;
- date of manufacture and expiry;
- instructions on preservation and use;
- origin of goods.

2. An information section on the right-hand side of the principal display panel in which non-compulsory contents of labels of goods may be presented (as well as any compulsory contents which could not fit in the principal display panel) provided that

the non-compulsory contents do not conceal or lead to misunderstanding of the compulsory contents of labels.

The basic requirement of Decision 178 and accompanying regulations is that all letters, numbers, drawings, pictures, signs, and codes on labels of goods must be clear and must determine the substance of the goods - any ambiguous labeling that causes confusion with other labels of goods is strictly prohibited.

Labels of domestically circulated goods must be presented in Vietnamese. If necessary, foreign language text may be included provided that it is in smaller print than the Vietnamese text. Labels of exported goods may be written in the language of the country or region into which such goods are imported where so agreed in the contract for sale and purchase of goods. In the case of imported goods, the compulsory contents in Vietnamese may be either printed on the original label or presented in a supplementary label attached to the original foreign language label prior to sale or circulation in the Vietnamese market.

The following acts constitute violation of the law regarding the labeling of goods:

- Circulation of goods without the required labels;
- Labeling goods with pictures, figures, or writing that do not correspond to the nature of the goods;
- Labeling goods unclearly, or with labels so faint that normal eyes cannot read their contents;
- Labeling goods without including all required compulsory contents;
- Failing to meet guidelines for the correct size, position, method of presentation, or languages on labels;
- Erasing or amending the contents of labels of goods;
- Replacing labels of goods for the purpose of deceiving consumers;
- Using trademarks of goods already protected by law without the approval of their owners;
- Labeling goods in the same manner as those of other business entities which have been protected by law.

## Prohibited and Restricted Imports

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Vietnam currently prohibits the commercial importation of the following products: arms and ammunition, explosive materials (not including industrial explosives), military technical equipment and facilities, narcotics, toxic chemicals, “depraved and reactionary” cultural products, firecrackers, some children’s toys cigarettes, second-hand consumer goods, right-hand drive motor vehicles, used spare parts for vehicles, used internal combustion engines of less than 30 horsepower, asbestos materials under the amphibole group, various encryption devices and encryption software.

## Customs Regulations and Contact Information

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Certain goods to be exported or imported must be inspected before being cleared at customs stations. The inspection covers quality, specifications, quantity, and volume. The inspection is based on Vietnamese standards, with the exception of pharmaceuticals, and should be carried out by an independent Vietnamese or foreign

inspection organization. Imported goods subject to inspection include petroleum products, fertilizers, electronic and electrical products, food and drink, machinery and equipment, steel, and pharmaceuticals. This list may be altered from time to time. Imported pharmaceuticals, for example, must go through random lab tests on sample batches performed by Vietnamese officials. Since January 1998, all imported drugs must have instructions on product use, dosage, and expiration dates printed in Vietnamese and inserted in packages.

## Standards

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## Overview

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Vietnam's standards system consists of over 5,000 standards. Specific information about product specific standards may be provided by Vietnamese importers or customers. Otherwise this information can be sought from the relevant ministry or government management body responsible for the country's standards, such as the Directorate for Standards and Quality (STAMEQ) of Ministry of Science and Technology. Vietnam's weights and measures standards are based on the metric system. The electric current is AC 50 cycles, 220/380. The electric utility system of Vietnam is being standardized at three phase, 220/330 volts, four wires.

Vietnam's system of standards is complicated and not always transparent; some items are subject to national standards; some are subject to regulations of the functioning agencies; and some are subject to both. However, Vietnam has adopted some international standards and is a member of various international organizations that regulate standards. In general, Vietnam does not appear to use technical measures to serve as non-tariff barriers. The exceptions to this are some goods controlled by specific ministries such as chemicals, toxic chemicals and intermediate materials for their production, wild animals, pesticides and materials for their production, pharmaceuticals, substances that may cause addiction, cosmetics that may have impacts on human health and medical equipment.

## Standards Organizations

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The Directorate for Standards and Quality of Vietnam (STAMEQ), under the Ministry of Science and Technology (MOST), is the national standardization agency. STAMEQ is responsible for advising the Government on issues in the fields of standardization,

metrology and quality management domestically, as well as representing Vietnam in international and regional organizations in the fields concerned. This organization also has the following responsibilities:

- To prepare rules and regulations on standardization, metrology and quality management and submit them to appropriate authorities for approval.
- To organize the supervision and implementation of approved rules and regulations.
- To establish an organizational system on standardization, metrology and quality management and provide methodological guidance for these activities.
- To organize the formulation of national standards and maintain national metrology standards.
- To provide product quality certification, testing and calibration laboratory accreditation.
- To implement state supervision on quality of goods and measurement.
- To conduct studies on standardization, metrology and quality management.
- To carry out informational and training activities related to standards.

Vietnam's Act on Product Quality, 1991, requires standards to be submitted by STAMEQ to the Ministry of Science and Technology and be approved, signed and promulgated by the Minister. Other ministries and provinces may establish and issue their own standards (Branch standards and Provincial standards).

The Vietnam Standards Centre (VSC) is the specific branch of STAMEQ that is responsible for standards. It has an established relationship with relevant domestic ministries/agencies, as well as international and regional standardization organizations in terms of standards development and establishing schemes for conformity assessment. For more information visit <http://www.vsc.org.vn/en>.

Vietnam Standards or Tieu Chuan Viet Nam (TCVN) are national standards developed on the basis of research, the application of scientific and technological advances, and the adoption of international/regional/foreign standards. TCVNs are used as the technical criteria for quality certification, supplier's product conformity declarations, and quality inspection of imported and exported goods. TCVN's are developed through technical committees and any other interested parties and are intended for voluntary adoption unless made mandatory under the decisions promulgated by the Minister of Science and Technology, or by specific references in other laws and regulations. There are currently about 250 mandatory standards. Any public or private organization or individual is bound to observe the mandatory standards. The State encourages the application of voluntary standards.

The first TCVN was developed in 1963. As of June 3, 2004 there are approximately 5,662 officially issued standards. To be in line with international/regional/advanced foreign standards, as far as practicable, STAMEQ tries to adopt them wherever feasible. STAMEQ has adhered to about 1,500 international, regional and foreign standards, such as ISO, IEC, ASTM, JIS, BSI, CODEX, STAN and ASTM.

On March 25, 2003 Vietnam's TBT enquiry and notification point of contact was formally established within the offices of STAMEQ. However, this enquiry point will not be fully functional until the end of 2005 or upon Vietnam's accession to the World Trade

Organization.

#### Conformity Assessment

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The Quality Assurance and Testing Center (QUATEST) is the organization responsible for standards testing in Vietnam. QUATEST, which works with STAMEQ, has three testing centers with the following responsibilities:

- Legal inspection of imported - exported goods.
- Verification for process line equipment.
- Calibration and verification of measuring equipment.
- Testing and inspection of products.
- Assessment of product and quality systems.
- Providing consultancy, training activities and information services.

#### Product Certification

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The Vietnam Certification Services (QUACERT) is a national certification body responsible for quality related certification established by STAMEQ. QUACERT certification criteria and procedures seek to comply with appropriate national and internationally recognized standards and guidelines. QUACERT certification is intended to provide independent and objective assurances for companies that have implemented internationally recognized standards. QUACERT is also responsible for:

- Participating in research for establishing legislation documents concerning conformity certification activities in Vietnam.
- Participating in research on quality, quality assurance and total quality management.
- Certification activities for organizations and individuals who have complied with national, international recognized standards or other specifications.
- Participating in training activities, professional improvement and information dissemination regarding quality and conformity certification.
- Participating in bilateral and multilateral international cooperative activities.

#### Accreditation

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The Vietnam Laboratory Accreditation Scheme (VILAS) is based on the Act on Product Quality and its enforcement decree and regulations, and is operated by the Bureau of Accreditation (BOA). The Bureau of Accreditation accredits laboratories and inspection bodies only and does not engage in accreditation of certification bodies and registration of auditors. Using international criteria, VILAS accords formal recognition to laboratories with demonstrated capability and technical competence to perform specific calibration and testing. VILAS is a voluntary scheme, open to any laboratory that performs objective testing/calibration falling within the scheme and meeting the VILAS criteria of competence. The aims of VILAS are to:

- Upgrade the standard of testing and management of laboratories.
- Identify and officially recognize competent laboratories in Vietnam.
- Promote the acceptance of test data from accredited laboratories, both locally and internationally.
- Integrate accreditation activities with those of other regional and international accreditation schemes.

STAMEQ seeks to keep VILAS abreast of the latest international developments in laboratory accreditation by participating in the activities of ILAC (International Laboratory Accreditation Conference), APLAC (Asia Pacific Laboratory Accreditation Cooperation) and ACCSQ (ASEAN Consultative Committee on Standards and Quality). VILAS acts as a contact point for APLAC's inter-laboratory comparisons and proficiency testing. VILAS also offers a variety of training courses for laboratory management, laboratory personnel and assessors.

The Vietnam National Accreditation Scheme (VNAS) is a new system established by STAMEQ in 1995 to control and operate Vietnam's entire accreditation system. Its primary purposes include establishing an internationally acceptable accreditation system; accrediting certification bodies, testing and calibration laboratories, inspection bodies, and registration of auditors; operating in accordance with relevant ISO/IEC guidelines and international standards; and developing human resource capabilities to meet international requirements.

#### Publication of Technical Regulations

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Cong Bao is the official gazette of the Vietnamese Government, similar to the U.S. Federal Register. Technical regulations and standards are printed in the gazette, which is issued in both Vietnamese and English.

#### Labeling and Marking

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For standards affecting product labeling, see the Labeling and Marking section presented earlier in Chapter Five.

#### Trade Agreements

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In July 1995, Vietnam became a member of Association of South East Asian Nations (ASEAN) and subsequently, a member of ASEAN Free Trade Area (AFTA). As part of AFTA, ASEAN members (including Brunei, Philippines, Indonesia, Laos, Myanmar, Malaysia, Singapore, Thailand, and Cambodia) are committed to making this region a competitive trading area. Under the harmonization process called CEPT -- the Common Effective Preferential Tariff Scheme -- intra-regional tariffs, especially for manufactured goods, would be reduced to a level of between zero to five percent by year 2003. Vietnam was granted a longer phase in period to fully implement CEPT reductions by 2006. In accordance with AFTA requirements, Vietnam has issued a government decree detailing the tariff reduction schedule and tariff rates through 2006.

As previously noted in this report, the United States and Vietnam concluded a Bilateral Trade Agreement, which entered into force on December 10, 2001. A full text of the agreement may be found at: [http://www.usvtc.org/BTA/bta\\_text1.htm](http://www.usvtc.org/BTA/bta_text1.htm)

Vietnam has applied for accession to the World Trade Organization and has undertaken an accelerated series of multi-lateral and bilateral negotiations in an effort to accede to the WTO. In December 2001, Vietnam submitted its initial offer on tariff reductions and market access. The ninth Working Party on Vietnam Accession was held in December 2004. The Government of Vietnam has publicly stated it hopes to accede in 2005.

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Vietnam Standards Center: <http://www.vsc.org.vn/en>

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## Chapter 6: Investment Climate

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Openness to Foreign Investment

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Vietnam, in principle, maintains a policy of encouragement of foreign investment. A crucial element in its long-term development strategy is the continued ability to attract and utilize relatively large amounts of overseas capital, both foreign direct investment (FDI) and official development assistance (ODA). Vietnam does not yet allow any

significant foreign portfolio investment. For the 2001-2005 period, the Government of Vietnam (GVN) has established targets for FDI at \$11 billion in disbursements from existing and newly licensed foreign investments and for approximately \$10-11 billion in ODA disbursed by foreign donors for a total of \$21-22 billion from foreign sources. These levels of FDI and ODA estimates are required to support the government's GDP growth target of 7.5 percent per year.

By December 2004, Vietnam had attracted nearly \$46 billion in investment commitments since the country was opened to foreign investment in 1988. Approximately \$27 billion, or 58 percent, of that amount has been disbursed in 5,109 projects. Sixty-six percent of disbursed investment was made into projects concentrated in or near the two major cities of Ho Chi Minh City in the south and Hanoi in the north. U.S. businesses have received 215 investment licenses for projects worth nearly \$1.3 million and have injected \$730 million thus far into Vietnam. Significant additional U.S. investment is counted as investment from third countries in cases where, for example, the investment involves a third-country subsidiary of a U.S. company. The United States Agency for International Development (USAID) and the Ministry of Planning and Investment have been conducting research in this area. Their latest estimate of total U.S. investment including all U.S.-related investment is 251 projects with a total registered capital of \$2.5 billion (as of July 2004).

As the GVN continues to proceed with its long-standing policy of reform of the economy, openness to foreign business, and integration into the world economy, Vietnam's rapidly growing population of 81 million should become an increasingly attractive investment destination. Vietnam entered into the Asia-Pacific Economic Cooperation forum (APEC) in late 1998. It is committed to enter into and fully comply with its obligations under the ASEAN Free Trade Area (AFTA) by 2006. In addition, it is currently engaged in negotiations to join the World Trade Organization (WTO). Perhaps the strongest recent signals of the country's commitment to economic reform and improving business climate were entry-into-force of the U.S.-Vietnam Bilateral Trade Agreement (BTA) in December 2001 and completion of agreements on economic reform with the International Monetary Fund (IMF) and World Bank also in 2001. Although the GVN and IMF allowed their agreement to expire in April of 2004 because the GVN was unable to meet IMF policy on audit and accounting arrangements, the IMF remains fully committed to continuing an effective partnership with the GVN to support the implementation of the Comprehensive Poverty Reduction and Growth Strategy and offer guidance on maintaining macroeconomic stability. Moreover, the IMF gave Vietnam good marks for its macroeconomic stability.

In light of Vietnam's strong macroeconomic performance despite the global economic downturn and continued progress on economic reform, Standard and Poor's assigned Vietnam's foreign and local currency bonds a BB minus long term and a B minus short term rating and labeled the long term outlook stable. Moody's was expected to upgrade Vietnam's long term rating from currently B1 to BA3. These developments, taken together with the country's relatively low-wage work force and natural resource base, are convincing foreign investors to consider Vietnam when looking for their next investment location.

However, despite an official policy encouraging foreign investment and a solid economic performance, Vietnam remains a difficult investment environment and potential investors should carefully scrutinize any investment plans. Currently in a period of transition from

a command economy to a 'state-supervised' market economy in which the state sector retains a 'leading role,' Vietnam is implementing a series of gradual reforms that will enable the economy to function more efficiently. As the GVN engages in this complex process, foreign investors must cope with a wide range of problems and costs. These include poorly developed infrastructure, underdeveloped and cumbersome legal and financial systems, an unwieldy bureaucracy, non-transparent regulations, high start-up costs, arcane land acquisition and transfer regulations and procedures, and shortage of trained personnel. Issuance of investment licenses can be a lengthy process. Moreover, investment projects in both pre- and post-establishment phases must cope with frequent changes in the investment environment in areas such as taxes, tariffs, import and export policies, and procedures. Additionally, the Vietnamese courts have so far proved unwilling or unable to enforce laws related to investor protections, in particular, the enforcement of arbitral awards. Finally, investors cite official corruption as a significant problem in establishing and running their business. In particular, investments involving joint ventures with State-owned enterprises have proven especially vulnerable to corruption and abuse.

Foreign investment in Vietnam is regulated by the Ministry of Planning and Investment (MPI) through the Law on Foreign Investment (LFI) and related implementing regulations, decrees, and circulars. This law was first introduced in 1989 when the country was opened up to investment and was followed by a series of amendments and supplements in order to improve the climate for foreign investors. The latest guiding regulation is Governmental Decree Number 27 issued in March 2003. It provides amendments to the 2000 Decree Number 24, which promulgated detailed regulations on the implementation of the LFI. Decree 24 includes an explicit pledge against expropriation, guarantees the right to repatriate profits, and states the GVN's intent to treat private and State sectors equally. The law provides significant fiscal and tax incentives to attract foreign capital.

Vietnam is also working to establish the legal framework to support a healthier more transparent business environment and to level the playing field between domestic and foreign investors. In 2004, the National Assembly passed a revised bankruptcy law and a Law on Competition. MPI also began drafting a Common Investment Law and revisions to the Enterprise Law, and anticipates submitting these to the National Assembly by the end of 2005 to become effective in 2006.

There are four primary forms of investment for foreigners in Vietnam:

a) **Joint venture (JV) agreements** pair foreign and local companies sharing capital and profits. The contribution of the local company, typically a State-owned enterprise (SOE), to the JV frequently consists solely of land use rights. The minimum percentage of foreign involvement in a JV is 30 percent, but examples of JVs where the foreign partner is not a majority shareholder are rare. The minority partner retains veto power over the majority partner concerning selection of senior management and changes in the JV charter. However, for U.S. investors, these rights will be phased out within three years of entry into force of the BTA. Joint ventures account for the majority of foreign investment to date. Many investors find JVs attractive because they can benefit from the assistance of an established Vietnamese firm in dealing with bureaucratic and administrative procedures. They also provide foreign investors access to land that may otherwise be difficult to secure. Some investors complain the government allows local partners to overvalue their land use rights.

b) **Business Cooperation Contracts (BCC)** permit a foreign firm to pursue business interests in cooperation with a Vietnamese firm by investing capital and sharing revenues without conferring the right of establishment or ownership. In many respects, it is the most flexible arrangement Vietnam offers to foreign investors. However, a BCC license typically does not contain tax holidays or concessions given to other types of foreign investments. BCC's have predominated in the telecommunications sector and, as production sharing contracts, in the petroleum sector, where the government limits foreign involvement in operations and management.

c) **100-percent Foreign-Owned Enterprises** have become more popular recently, as investors have learned to navigate the local system on their own. The GVN has shown increasing willingness to permit them on a case-by-case basis, particularly in industrial production for export.

d) **Build-operate-transfer (BOT) agreements** are the least commonly used form of foreign investment. While authorized under the LFI and specific BOT legislation, the legal, regulatory, and financial framework for BOT's remains incomplete. The LFI also recognizes build-operate-own (BOO), build-transfer-operate (BTO), and build-transfer (BT) forms of investment. Under a BOT agreement, the investor builds an infrastructure project, operates it for an agreed period of time to recover the investment and earn a profit, and then cedes it to the government without further compensation. Several foreign-invested BOT licenses have been granted, but many others have been held up in protracted negotiations. The most intractable BOT issues have been financing, product pricing and government regulatory and cost-recovery guarantees.

Foreign investors have pressured the Vietnamese government for years to expand the permissible forms of foreign investment. As part of an effort to unify the laws governing foreign and domestic enterprises, the Government issued Decree 38 in April 2003 providing for the conversion of a number of foreign invested enterprises (FIEs) into foreign invested shareholding companies (FISCs). The conversion option is only available to JVs and FIEs. A FISC must continue to implement the approved investment project of the former FIE and will be entitled to preferential treatment under the Law on Foreign Investment and its implementing regulations. Nevertheless, the rights of FISCs' shareholders and the organizational structure of the FISCs will be governed by the Law on Enterprises, the same as for domestic shareholding companies. A FISC must have at least one foreign founding shareholder and the total shareholding of the foreign founding shareholder(s) must be at least 30% the FISC's chartered capital throughout the life of the company. FISC will be permitted to list on the Vietnam stock exchange.

To qualify for conversion, a FIE must be in operation for at least 3 years, must have made profits in the year immediately preceding the year of conversion, and its legal capital must be fully paid up. All conversions are subject to the Prime Minister's approval. Only a limited number of FIEs have been selected by the MPI, in consultation with other ministries for conversion into FISCs. The Prime Minister approved six FIEs to take part in the first round of conversion. This number is much lower than the MPI's target of 20-25 participants. After the first pilot FISCs have been tested, Decree 38 will be reviewed by the Government and may be extended to a wider range of FIEs.

Other reforms under the Government Decree Number 27 issued in March 2003 include:

- A new 100 percent Foreign Owned Enterprise (FOE) may now be formed between an existing FOE and (i) another existing FOE and/or (ii) new foreign investor(s);
- A Business Cooperation Contract may now be established by an existing joint venture enterprise or an existing FOE with another foreign organization or individual;
- A new Joint Venture Enterprise (JVE) may now be established between an existing FOE and a Vietnamese enterprise or between an existing FOE and an existing JVE. However, a JVE may not be established between an existing FOE and a foreign investor or an overseas Vietnamese investor.

Decree 27 also abolishes the restriction that any legal capital (equity) in the form of technology transfer must not exceed 20 percent of legal capital, and is subject only to agreement by the parties of the company.

At present the Government maintains an extensive investment licensing process that is characterized by stringent and time-consuming requirements that are frequently used to protect domestic interests, limit competition and allocate foreign investment rights among various countries. The Ministry of Planning and Investment (MPI) is the primary point of contact for most foreign investors. But Vietnam currently does not offer at the central level a 'one-stop shop' for investment negotiation and approval. Foreign investors typically must contact and obtain support and/or approvals from a number of national and local agencies; indeed, licensing approval is required from other ministries or government bodies which regulate particular sectors, especially oil and gas, pharmaceuticals, financial services. In addition, investors may not always be aware of all regulatory requirements for licenses, which have led at times to complaints of unfair or discriminatory treatment. Licensing is required not only for establishment, but also in order to make significant changes to an operating concern such as to increase investment capital, restructure the company by changing the form of investment or investment ratios between foreign and domestic partners, or add additional business activities.

In the early 1990's, all foreign investment projects required approval by the Prime Minister. Overtime, in an effort to reduce obstacles to foreign investment, this list of projects subject to approval at the highest levels was reduced. At present, Prime Ministerial approval is required for investment licenses for the following:

- projects with investment capital in excess of US\$ 40 million in electricity; mining, metallurgy, cement, mechanical engineering, manufacture, chemicals, hotels, apartments for lease, tourism, and entertainment;
- projects of any value in the following sectors:
  - Infrastructure construction of industrial zones (IZ) and export processing zones (EPZ), urban areas, build-operate-transfer, build-transfer-operate and build-transfer projects;
  - Construction and operation of seaports and airports; operation of sea and air transportation;
  - Oil and gas;
  - Post and telecommunications services;

- Culture; including publishing, press; radio and television broadcasting; medical examination and treatment establishments; education and training; scientific research and production of medicine for human diseases;
  - Insurance, finance, auditing and inspection;
  - Exploration and exploitation of rare and precious natural resources;
  - Construction of residences for sale; and,
  - National defense and security projects.
- projects that use five hectares or more of urban land or 50 hectares or more of rural land.

Vietnamese authorities evaluate investment license applications using a number of criteria including:

- the legal status and financial capabilities of the foreign and Vietnamese investors;
- the project's compatibility with Vietnam's 'Master Plan' for economic and social development;
- the benefits accruing to the government or to the Vietnamese party, especially acquisition of new production capabilities, industries, technologies, expansion of markets; and job creation;
- projected revenue;
- technology and expertise;
- efficient use of resources;
- environmental protection;
- plans for land use and land clearance compensation;
- project incentives including tax rates and land, water, and sea surface rental fees.

Over time, the GVN has gradually but steadily improved its investment licensing regime. Greater authority over investment licensing has been devolved to provinces, municipalities, and investment zones. Provincial People's Committees now have authority to issue investment licenses for projects not subject to Prime Ministerial approval, which do not exceed \$5 million in invested capital, or \$10 million in invested capital in the areas of Hanoi and Ho Chi Minh City. MPI is working on a proposal to decentralize state management in foreign investment. Under this proposal Hanoi and Ho Chi Minh would be given authority to grant licenses for foreign investment projects with capital up to \$40 million. Other provinces and cities would be authorized to issue licenses for projects up to \$20 million invested capital, except projects subject to Prime Ministerial approval. MPI may also authorize Provincial Industrial and Export Processing Zone Management Boards to issue investment licenses for projects those that are not subject to approval by the Prime Minister and do not exceed \$40 million. Several provincial committees and IZ management boards have significantly streamlined licensing procedures in their jurisdictions, reducing the time to days if not hours in some cases. Ho Chi Minh City is in the process of implementing a "one-stop shop" for investment licenses its government is authorized to issue. While this decentralization is frequently in the foreign investor's favor, it has also given rise to considerable regional differences in procedure and interpretation of relevant investment law and regulation.

In addition, the 2000 amendment to the LFI added a "Registration" licensing procedure where previously only an "evaluation" or approval procedure had existed. Under Registration procedures: projects cannot be refused a license so long as all the necessary documents have been submitted; the applicants are not required to submit a detailed feasibility study; and the review time limit is only 15 days compared to the 45-day period mandated for the licensing via the Evaluation procedure. Registration procedures are only open to those projects which are not subject to prime ministerial approval and/or environmental impact assessment.

Government Decree 27 issued in 2003 has amended the conditions for investment registration as follows:

Projects must satisfy one of the following alternative conditions:

- a. exporting 80% of products (reduced from 100%); or
- b. investing in an encouraged or specially encouraged project located in an industrial zone (as opposed to the previous requirement of investing in an industrial zone and satisfying export ratio criteria); or
- c. belonging to the manufacturing sector with up to \$5 million invested capital (the previous requirement on exporting at least 80% of products has been abolished)

Because it recognizes the need for increased foreign direct investment if Vietnam is to reach the ambitious development goal set out in the 2001-2010 Socio-Economic Development strategy, the GVN has a policy of trying to improve the climate for investment. Perhaps the single most important event in Vietnam's recent economic history is the entry-into-force of the U.S.-Vietnam Bilateral Trade Agreement (BTA). Implementation of Vietnam BTA commitments will help ensure fair access and treatment for U.S. investment, goods and services. The BTA provides a broad range of benefits for U.S. investment in Vietnam that should significantly enhance the investment environment for U.S. firms. A major part of the BTA is devoted to investment which: provides national and most-favored-nation treatment, except where explicit exceptions have been made; guarantees access to third-party investor-state dispute settlement; disciplines trade-related investment measures; ensures treatment of expropriation consistent with international standards. In addition, other chapters of the BTA will reduce tariffs and quantitative restrictions on U.S. investor's imports; permit U.S. investors to engage directly in trade; require the government to operate more transparently; open sectors of interest to U.S. business including banking, insurance, professional services, telecommunications, distribution, etc.; and provide protection consistent with World Trade Organization (WTO)-standards for U.S. investors' intellectual property.

Also, a number of important policy decisions and legal changes have been made which are intended to create a more open, business friendly investment climate for both foreign and domestic private investors. On December 25, 2001, the National Assembly adopted changes to the Constitution of 1992, which contained several business related items in Articles 15 and 16. One provided the constitutional basis for Vietnam's integration into the international economy. Another formally recognized the foreign direct investment and the domestic private sectors as components within the Vietnamese economy in addition to the already recognized sector comprising SOEs. Previously, the approach under Vietnamese law was to permit a firm to engage only in those activities for which it

had explicit permission. The amendment package formally stated the principle that businesses could engage in all activities except those prohibited by law. These constitutional changes codified at the Constitutional level changes in approach with respect to foreign and domestic private sector investment contained in the economic reforms of the 1990's, lending them a level of permanence that they had heretofore not enjoyed.

In addition, in 2001-2002, both the Government and the Communist Party of Vietnam (CPV) issued policy documents supportive of the private sector, domestic and foreign. In August 2001, the Government signaled its intent to continue to improve the climate for foreign investment when it issued a resolution calling for continued efforts to improve Vietnam's attractiveness to foreign investment in the next five years by:

- expanding of the sectors open to foreign investment, to include real estate, import services and domestic distribution;
- easing conditions for foreign-ownership of equitised state-owned enterprises;
- permitting foreign invested enterprises (FIE's) to issue stock to be sold on the local stock exchange;
- facilitating foreign investors' participation in BOT's;
- narrowing the list of prohibited FIE exports;
- establishing a level playing field among foreign, domestic private and state-owned enterprises; and
- continuing reform of laws and regulations on foreign investment.

Perhaps more significantly, the CPV issued a resolution in March 2002 clearly stating its support for a mixed economy with equal treatment of foreign, private domestic and state-owned enterprises. In this document, the CPV made several important recommendations which, when translated into actual policy, will provide significant support for the private sector in the future including: continuing reforms to make it easier to do private businesses; eliminating discriminatory treatment of domestic or foreign private sector activity; making clear distinctions between civil and criminal offenses so as to avoid the prevalent criminalization of certain commercial decisions and disputes; simplifying lending procedures to give private enterprise greater access to domestic credit; and amending existing accounting procedures to encourage private enterprise to perform financial audits and disclose the results annually.

On June 15, 2004, the National Assembly passed the Law on Bankruptcy to replace the 1993 Law, effective October 15, 2004. The main objectives of the 2004 Law are to simplify bankruptcy procedures, to allow parties other than creditors to participate in bankruptcy procedures, and to give courts more flexibility in dealing with insolvent businesses. Enterprise bankruptcy is a normal phenomenon in a market economy. It creates favorable conditions for ineffective enterprises and business organizations to exit the market and to be replaced by more effective ones, making the business environment more healthy and transparent.

The much-anticipated Law on Competition was passed in November 2004 and enters into force on July 1, 2005. The main objective of the Competition Law is to create and promote an equitable and non-discriminative competition environment, and to protect and encourage fair competition. The Law stresses the importance of the rights of

organizations and individuals to compete freely within the law. Key elements of the law address anti-competitive agreements, state monopoly, economic concentration and unfair competition. The Law also creates a Competition Management Department under the Ministry of Trade and addresses breaches of the Law. The introduction of a competition law is an important step in the opening of the Vietnamese market to international practices. However, ensuring proper implementation, including training staff and judges, is a crucial step that remains.

As part of Vietnam's efforts to create a level playing field for investors, MPI commenced drafting a Common Investment Law in April 2004. The Common Investment Law would regulate investment guarantee measures, sectors and areas where investment is encouraged, and the investment incentives that are commonly applied to both domestic and foreign investors. To support the Common Investment Law, the Law on Enterprises will also be revised to apply to both foreign and domestic enterprises. The revised Law on Enterprises would regulate establishment forms and procedures, organization, management and dissolution of enterprises of all economic sectors. MPI plans to submit both of the above-mentioned laws to the National Assembly by the end of 2005 and become effective in 2006.

The above actions strongly indicate the Vietnamese leadership's intention to continue to improve the country's foreign investment climate, even if its efforts sometimes fall short. This effort began in 1989 when the country adopted the Law on Foreign Investment (LFI) and has continued with four major amendments of the LFI, the most recent in 2000, and the issuance and amendment of numerous implementing regulations. Most recently, the GVN has issued laws and regulations intended to facilitate foreign investment by reducing or eliminating discrimination against foreign investors in pricing for goods and services, transfer requirements, use of land use rights for mortgaging purposes, unanimity rules applying to certain decisions made by joint venture boards, rights of first sale and many others. Many of these changes were mandated under the BTA.

In spite of these steps, policy does not always translate into concrete action and many additional official measures that discriminate against foreign investment persist. These can be found listed among the permanent exceptions to the non-discrimination obligations contained in the BTA investment chapter. Some must be eliminated at a later date under the BTA; others will remain indefinitely. Additionally, Vietnam continues to impose unofficial and arbitrary measures that negatively affect foreign investors and in some cases, threaten their capital investments.

At present, most foreign importers are barred from direct participation in Vietnam's distribution system, although foreign investors have the right to sell, market, and distribute what they manufacture locally. Foreign investors have the right to import goods needed for their investment projects, provided this right is included in their investment licenses, however, they must import the goods through licensed Vietnamese import/export firms. An exception is made for foreign manufacturers importing inputs directly related to production when such import rights are explicitly included in their investment licenses. Under the BTA, trading rights and market access in distribution services for foreign investors will be gradually expanded. While Vietnam has greatly expanded in recent years the number of Vietnamese firms permitted import/export rights, the vast majority of general import/export companies remain SOE's.

The GVN holds regular 'business forum' meetings with domestic and foreign business associations to discuss issues of importance to the private sector. Foreign investors use these meetings to draw attention to impediments to investment and commerce imposed by Vietnamese law and regulation as well as by improper implementation. These fora, together with frequent dialogues between GVN officials and foreign investors held between the semi-annual fora, have led to improved communication and have sometimes allowed foreign investors to make timely comments on and influence legal and procedural reforms.

Foreign enterprises also have the right to apply to the Ministry of Trade or the Department of Trade in Hanoi or Ho Chi Minh City for a representative office license, which gives foreign firms the right to conduct market research and to pursue business interests, short of actually selling products and services in Vietnam. Foreign banks must apply to the State Bank of Vietnam for representative office or bank branch licenses.

Previously, Vietnam applied different corporate income tax rates to foreign investors and to domestic enterprises (being 25 percent and 32 percent respectively). The National Assembly in its May 2003 session approved the Ministry of Finance amendments to the Law on Corporate Income Tax, which provide for a uniform rate of 28 percent applied to foreign invested and domestic businesses, representing a three percent increase for foreign invested enterprises and a four percent reduction for domestic companies. Tax incentives will also be the same for both foreign invested and domestic enterprises and will be offered to investors in selected priority sectors and in remote areas. The Amended Law on Corporate Income Tax took effect January 1, 2004. Under this law, Government Decree 164 and Circular 128 of the Ministry of Finance issued in December 2003 abolish the tax on profits remitted by foreign invested enterprises. In response to foreign investors' long-standing complaints about the high personal income tax rates for Vietnamese national employees in the higher pay scales, which significantly increases the gross salary employers must pay to maintain competitive and reasonable take home salaries, the Standing Committee of the National Assembly promulgated Ordinance 14 on Amendments to the Ordinance on Income Tax of High Income Earners in March 2004. Under this legislation, the tax burden on Vietnamese employees was reduced from 1 July 2004.

#### Conversion and Transfer Policies

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Vietnam's foreign exchange regime has been significantly improved with the amendments to the LFI (the 2000 Governmental Decree Number 24 and 2003 Decree Number 27), which explicitly gave foreign investors the right to exchange local currency for foreign currency to meet certain current transactions or remit certain categories of earnings. In addition, conversion of Vietnamese dong into hard currency no longer requires a foreign exchange license. Despite these significant improvements, various subsequent decrees and circulars issued by the State Bank continue to stipulate conditions on, among other things, the opening of bank accounts, conversion of Vietnamese Dong into foreign currency, documentation requirements, and remittance of foreign currency in and out of the country.

Foreign businesses are allowed to remit profits, shared revenues from joint-ventures, income from services and technology transfers, legally-owned capital and properties in hard currency. Foreigners also are allowed to remit abroad royalties and fees paid for

the supply of technologies and services, principal and interest on loans obtained for business operations, and investment capital and other money and assets under their legitimate ownership. But their ability to convert dong into hard currency is subject to availability, causing Foreign-invested-enterprises (FIEs) to experience problems in securing hard currency. No information on average delays in remitting investment returns is available. Approval by investment authorities is needed to increase or decrease the capital of a foreign-invested business.

In principle, most FIEs are expected to be 'self-sufficient' for their foreign exchange requirements, although this sometimes proves impractical. Government of Vietnam guarantees to assist in the balancing of foreign currency for foreign invested enterprises and foreign business cooperation parties that invest in the construction of infrastructure and certain other important projects in the event that banks permitted to trade foreign currency are unable to fully satisfy their foreign currency demand.

#### Expropriation and Compensation

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The U.S. Embassy knows of no recent instances of expropriation of a foreign investment by the Government of Vietnam.

Under the BTA, in any future case of expropriation or nationalization of U.S. investor assets, Vietnam will be obligated to apply international standards of treatment - that is taking such an action for a public purpose; in a non-discriminatory manner; in accordance with due process of law; and with payment of prompt, adequate and effective compensation.

#### Dispute Settlement

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Vietnam's legal system, including dispute and claims settlement mechanisms, remains underdeveloped and sometimes biased against foreign entities. Negotiation between the concerned parties is the most common and preferred means of dispute resolution. Although contracts are extremely difficult to enforce in Vietnam, particularly if one party to a dispute is a foreigner, investors generally should negotiate and include dispute resolution procedures in their contracts. However, even with such provisions, resolution is not guaranteed.

In the event of an investment dispute, a number of domestic avenues are available. Economic courts, in addition to hearing bankruptcy cases, also have jurisdiction over cases involving business disputes. Administrative courts hear cases that concern alleged infractions of administrative procedures by government authorities. In such cases, the plaintiff must pay a bond to the court, half of which is forfeited if the dispute is resolved before the beginning of court proceedings. Also, the court proceedings must begin within six months of the date of the dispute. Many international investors express concerns about the ability of the court system to render impartially and promptly a decision that accurately reflects the facts and properly interprets the relevant Vietnamese law and/or international law and practice. Thus, they prefer to have other options available to them. According to Vietnamese press accounts, many court judgments on business issues are ignored because the affected party can use "influence" to forestall the application of the judgment.

Outside of the court system, economic arbitration centers operate in a number of provinces and cities. However, it is not clear if these centers are legally competent to settle disputes involving foreign parties. Another type of arbitration institution in Vietnam is the Vietnam International Arbitration Center (VIAC), which operates in close coordination with the Vietnam Chamber of Commerce and Industry (VCCI). It has authority to settle disputes arising from international economic transactions including contracts on foreign trade and investment. However, it is not clear if investors would be free to choose foreign arbitrators. Nor can international standard arbitration rules, such as those of the International Chamber of Commerce (ICC) or the United Nations Commission on International Trade Law (UNCITRAL), be used. The decisions of the VIAC are final and cannot be appealed to any domestic court. The center does not yet have an established track record for competence or impartiality, and questions have been raised about the enforceability of its awards. For now, most foreign parties choose to stipulate "third party" arbitration in their contracts with Vietnamese parties and the government.

Foreign and domestic arbitral awards are technically legally enforceable in Vietnam. Vietnam acceded to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1995, meaning that foreign arbitral awards rendered by a recognized international arbitration institution must be respected by Vietnamese courts without a review of the case's merit. In practice, however, the U.S. Embassy is aware of contradicting judgments and decisions by different Vietnamese courts with regards to a foreign arbitral award for a case between a subsidiary of a U.S. firm and an Australian-Vietnamese joint venture. The foreign arbitral award was recognized by a municipal Economic Court, but was subsequently reversed by the Supreme Court (the highest judicial level) upon appeal. The Supreme Court rearbitrated the case in Vietnam (contrary to the agreed upon procedures in the contract) and ruled that as a construction contract did not fit the narrow definition of commercial contract found in the Commercial Code, a foreign arbitral award relating to it could not be enforced in Vietnam. The results of this case indicated that the enforceability of a foreign arbitral award in Vietnam currently remains questionable. In February 2003, the National Assembly passed the Ordinance on Commercial Arbitration. The ordinance defines "commercial activities" more broadly to include, inter alia, leasing, construction, consultancy, licensing, investment, financing, banking, insurance, exploration, mining activities and transportation. But, this ordinance has not yet been tested and it is not yet clear whether this change will positively affect the way courts address these issues.

Under the investment chapter of the BTA, Vietnam gives U.S. investors the right to choose a variety of third party dispute settlement mechanisms in the event of an investment dispute with the GVN. Vietnam has not yet acceded to the Convention on the Settlement of Investment Disputes between States and Nationals of other States (ICSID), but has asked the U.S. to provide advice in this area as part of the U.S. technical assistance program designed to assist Vietnam to fully implement the BTA.

Up until recently, exit strategies for foreign investors have been limited and problematic. Since the original Law on Business Bankruptcy was issued in December 1993 ("1993 Law"), only 61 bankruptcy cases have been brought to court. The small number of bankruptcy cases is due largely to the deficiencies of the 1993 Law. The new Bankruptcy Law, in effect beginning October 2004, attempts to simplify bankruptcy

definitions and procedures to give both investors and the courts more flexibility in resolving insolvency.

#### Performance Requirements and Incentives

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While Vietnam is not yet a member of the World Trade Organization (WTO), under the BTA Vietnam is obligated to gradually discontinue application of any trade-related investment measures (TRIMS) or performance requirements inconsistent with the WTO TRIMS agreement. Vietnam currently imposes a number of performance requirements with respect to the establishment of an investment and/or the receipt of a benefit or incentive. Under the terms of the BTA, Vietnam retained the right to require that an investment project export at least eighty percent of its production for seven years in the following sectors: cement; paint; bathroom tiles and ceramics; PVC and other plastics; footwear; clothing; construction steel; detergent powder; tires and inner tubes for cars and motorbikes; NPK fertilizer; alcoholic products; tobacco; and paper. In December 2001, Ministry of Planning and Investment issued Decision 718 revising the list of products subject to an export requirement. However, many of the products identified in Decision 718 are not in the list agreed upon in the BTA. According to Decision 718, Vietnam currently has an eighty percent export requirement for: motorcycles; minibuses and trucks (less than 10 ton); some irrigating pumps; medium voltage, low voltage and normal electric transmission cables; cargo ships, audio-visual products; aluminum profiles products; construction glass; NPK fertilizer; PVC; bicycles and bicycle parts; transformers under 35 KV; and diesel motors under 15 CV.

Vietnam also requires foreign investors in some sectors to use local content. This is particularly applied to foreign investment in electronics, motorcycle and automobile sectors as stipulated in Decision 648 issued in 1999 by the Ministry of Science Technology and Environment. Other sector requiring the use of local raw materials include sugar, paper, vegetable oil, wood processing and milk. The BTA stipulates Vietnam must phase out several TRIMS-inconsistent local content requirements within five years or less of the BTA's entry-into-force. Vietnam has eliminated trade-balancing requirements previously imposed through restrictions on the importation of goods used for production by foreign investors. In the same vein, it has removed foreign exchange balancing requirements. Under the BTA, Vietnam is also obligated to refrain from imposing requirements to transfer technology as a condition for the establishment, expansion, acquisition, management, conduct or operation of an investment.

The GVN employs an extensive range of incentives in an attempt to attract foreign investment into certain priority sectors or geographical regions. The LFI and subsequent decrees authorize MPI to 'encourage investment in mountainous and remote areas' of the country and in regions with 'difficult economic and social conditions'. MPI also encourages investment in export production, agricultural and forestry production, high technology, ecology, research and development, labor-intensive processing of raw materials, and large industrial and/or infrastructure projects. The law also favors to a lesser degree, investments in metallurgy, basic chemicals, petrochemicals, fertilizer manufacture, manufacturing (especially electronic components and car and motorbike parts), and planting industrial crops. Under Circulars 1817 and 1818 (1999), the Ministry of Science, Technology, and Environment (MOSTE) also encourages projects in the areas of treatment of environmental pollution and waste, production of new or rare and precious materials, application of new biological technology, application of new

technology for manufacturing communication and telecommunication equipment, and electronic and informatics technology. More recently, the GVN opened the healthcare and education sectors more widely to foreign investment and began providing a variety of incentives for such investment. Although the GVN encourages investment in the provinces, enforcement of investor protections and BTA rights with Provincial Authorities has proven difficult at best. Investors should use due diligence when working at the Provincial or local levels.

Depending on the sector, FIEs and foreign parties to a BCC may be exempted from profits tax for a maximum period of two years commencing from the first profit-making year and may be allowed a 50 percent reduction of profits tax for a maximum period of two consecutive years. Certain 'encouraged' projects may be exempted from profit tax for up to four years from their first profitable year and may be allowed a 50 percent reduction of profits tax for a further four years. Where the investment is 'especially encouraged,' the maximum period of tax exemption shall be eight years. Such exemptions are generally written into a company's investment license.

The law on export and import duties specifies the rates which FIEs and parties to BCC's must pay on exports and imports. Equipment, machinery, specialized means of transportation, components and spare parts for machinery and equipment, raw materials and inputs for manufacturing, and construction materials that cannot be produced domestically, which are imported to Vietnam to form fixed assets of an FIE or a BCC are exempted from import duties. Other exemptions or reductions of import and export duties can be stipulated by the GVN for 'encouraged' projects and are also generally contained in an enterprise's investment license

Other special incentives are available to foreign investors in build-operate-transfer (BOT) projects and projects located in export processing zones (EPZ), industrial zone (IZ) and high tech zones (HTZ). BOTs may be joint ventures or 100 percent foreign-owned. They are exempt from land tax and from payment of duties on goods imported to implement the contracts. They enjoy a lower profits tax rate (10 percent), a five percent withholding tax rate (the lowest normal rate), an eight-year tax holiday starting from the first profitable year, and a government guarantee for conversion of revenue from local to foreign currency. The term of a BOT can extend to 50 years, after which project ownership reverts to the government.

Projects in EPZs are entitled to profit tax rates of 10-12 percent for the duration of the investments. EPZs were the first production zones developed in Vietnam, but interest in them has been less than anticipated due to inadequate infrastructure and a requirement that these firms export 100 percent of their product. Ho Chi Minh City's Tan Thuan Zone is Vietnam's largest EPZ, while others are planned or in operation in Danang, Can Tho, Hanoi, and Ho Chi Minh City. Export-producing firms wishing to operate in an EPZ apply for licenses and pay taxes directly to the EPZ management boards, which streamlines the process. Imports of machinery and raw materials enter the zones duty-free, and EPZ firms sometimes also benefit from lower rents, fewer regulations, and a variety of tax incentives.

Industrial zones are open to companies engaged in construction, manufacturing, processing or assembly of industrial products, and service to support industrial production. Companies submit license applications and pay taxes directly to the IZ management boards. IZ firms also are eligible for certain tax benefits, including a 10

percent profit tax for the duration of the investment. Companies that reinvest profits may be eligible for refund of profit taxes. Foreign-invested automobile manufacturing projects are subject to local content requirements in their investment licenses.

Vietnam has also instituted a number of incentives designed to attract investment from foreign investors of Vietnamese origin. They are allowed to choose to operate under domestic, as opposed to foreign, business licenses, although they may choose to operate as a foreign business where doing so would be advantageous to them. The land law has also been amended to permit limited categories of these investors to buy land use rights to build homes, which other foreigners are not permitted to do. However, the GVN often does not recognize the adopted nationality of many Vietnamese origin persons unless they have formally renounced their Vietnamese citizenship and may consider them to be Vietnamese nationals. U.S. investors of Vietnamese origin should consult the U.S. Embassy in Hanoi or the U.S. Consulate General in Ho Chi Minh City for more information.

#### Right to Private Ownership and Establishment

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Until the late-1980's, the Vietnamese economy was organized according to principles of socialist central planning. Since then, the government has moved to develop a market-oriented economy and has formally recognized the existence of the private sector. In recent years, the private sector, foreign and domestic and, to a lesser extent, a small collective sector have begun to play greater roles in the economy, although current policy dictates that the state sector will continue to "play a leading role" in the economy.

SOEs continue to dominate the industrial economy of Vietnam. A large majority of these SOEs suffer from weak finances, high debt, obsolete plant and equipment, poor management, poorly trained staff, low labor productivity, and low product quality. According to the National Steering Committee for Enterprise Reform and Development (NSCERD), as of December 31, 2004, Vietnam has approximately 3,300 SOEs, down from around 12,000 in the early 1990's. NSCERD estimates that 50 percent of the remaining SOEs are incurring losses.

As part of its 2001 economic reform agreement with the World Bank and the IMF, the GVN committed to equitize roughly one-third of the current SOEs over three years and ensure that those remaining become competitive. However, actual implementation of the reform program has been slower than planned. In addition, many international observers expressed disappointment that the government did not agree to completely dismantle its SOE sector over time. Especially disconcerting to these observers is the Socio-economic Strategy for 2001-2010 which reconfirms the "leading role" of the state enterprise sector and instructs the government to retain and improve SOE operations in broad range of sectors which hold considerable interest for the international investor, including telecommunications, banking, insurance, petroleum and more. At the same time, however, the GVN has instructed agencies and ministries to restructure or dissolve loss-making SOEs.

A vibrant private sector is emerging in Vietnam. Dozens of large-scale Vietnamese private enterprises and tens of thousands small and medium sized firms now exist. The single most crucial GVN action in supporting of the development of the domestic private sector was the enactment, in January 2000, of the Enterprise Law, which provided, for

the first time, simplified domestic business registration rather than discretionary government approval and licensing. At the end of 1999, official statistics counted 45,000 companies in the formal domestic private sector. Since, then 120,000 enterprises have been registered, the large majority of which are new enterprises. The rest were previously-existing firms that moved from the informal to the formal sector. Also, as part of implementation of the new law, the GVN has moved to abolish nearly 200 "unnecessary" permits required by various ministries and localities for operation of a business. Unfortunately, these agencies keep adding to the list of these "baby permits" in an effort to re-establish control over issues they previously influenced via the licensing system. Domestic private enterprises have created substantial new employment in Vietnam, while employment in the state sector has been stagnant or declining.

Private firms, however, continue to be severely disadvantaged relative to SOEs in terms of access to credit and land, and in legal and regulatory treatment. Private firms face restrictions in using land use rights for joint ventures with foreign investors. SOEs also receive most of the lending from state-owned banks, which dominate the banking sector. In general, despite these restrictions, the relatively larger private firms that are emerging in Vietnam operate with better management and greater efficiency than the SOEs. Moreover, high-ranking government officials have stated the GVN's intention to put foreign and domestic investment on more or less even footing with SOEs with respect to access to credit, legal and regulatory treatment, pricing, and fees. However, SOEs are likely to retain better access to land and will continue to be expected to "dominate" in key sectors as identified by the political leadership.

## Protection of Property Rights

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The Vietnamese legal system is in a state of transition to support a more market-oriented economy and undergoes frequent and at times significant change. The rudiments of a legal system that protects and facilitates property rights have been established. But much more work needs to develop the laws and enforcement mechanisms needed to adequately protect property rights in Vietnam.

All land in Vietnam belongs to "the people", administered or managed by the State. Private land use rights (LURs) were established for the first time in 1988 when agricultural land was decollectivized and land use rights were granted to households. A LUR is a State-granted right to use land for a specific purpose. The 1992 constitution granted stronger land rights to individuals, including rights over commercial and personal property. LURs may be granted for up to 50 years, depending on the specific use of the land. Individual holders of LURs can sell them if they move to a new location, change jobs, or are unable to work. In the 1993 Land Law, the National Assembly broadened LURs to include rights to exchange, transfer, rent, inherit, and mortgage land. In 1998 several additional changes to the land law were enacted, primarily to distinguish between corporate leaseholders, who can use their land for domestic or foreign joint ventures, and individual leaseholders who are not permitted to enter joint ventures with foreign entities.

Additional amendments to the land law in 2001 and subsequent implementing regulations decentralized authority for leasing land to businesses and permitted local officials to lease land to foreign organizations, individuals and overseas Vietnamese. Still, foreign investors can currently only lease land from the Government or in industrial

parks. These limitations may soon be lifted. Government Resolution Number 2 issued in January 2003, proposed allowing domestic private companies with long-term land use rights to lease their land to foreign investors, provided that the lease is not longer than the rights held by the leaser. The new Land Law passed by the National Assembly in November 2003 and in effect from July 1, 2004 allows domestic private companies with long-term land use rights to lease their land to foreign investors. Permission, however, is subject to approval of the authorities who grant the land use rights to the leaser, and the continued requirement that a lease cannot be longer than the rights held by the leaser.

Vietnamese LUR-holders have the right to mortgage them, but Vietnamese banks generally value land at a maximum of 70 percent of the total rent already paid on the property, not the property's appraised value. As organizations only were obliged to begin paying rent in February 1995, the values of mortgages on land are not large, which limits their usefulness for property-based project finance. The amended LFI permits foreign banks branches to accept mortgages of land use rights. But to date, widespread use of collateralized bank loan actions have been hampered by a lack of central registration for mortgaged assets. Foreign banks also want to see an amendment to the land law to permit them to take possession of the land after a foreclosure, and amendments to banking regulations. In March 2002, a good first step was made when the New National Register for Secured Transactions opened for business in Hanoi and Ho Chi Minh City. But the registry does not have jurisdiction over land-use rights or buildings, assets that remain under the control of local authorities and the enforceability of collateral in the form of LUR and property remains uncertain. The National Register for Secured Transactions is working on a draft law on registration of immovable assets that is intended to give the registry jurisdiction over land-use rights of buildings and assets. MPI plans to present the draft law to the National Assembly for consideration by the end 2005.

IPR infringement continues to be widespread and enforcement of administrative orders and court decisions finding IPR infringement remains problematic. Vietnam is a member of the World Intellectual Property Organization (WIPO) and is a signatory to the Paris Convention for Industrial Property. It has acceded to the Patent Cooperation Treaty and the Madrid Agreement. In June 2004, Vietnam decided to join the Berne Convention on Copyright Protection for Literary and Artistic Works. On October 26, 2004, Vietnam became the 156th full-fledged member of the Convention, which is the country's first multilateral copyright agreement. The U.S.-Vietnam Bilateral Copyright agreement obligates Vietnam to provide U.S. copyrights protection on a national treatment basis in accordance with the terms of the Berne Convention. Under the terms of the BTA, Vietnam was obligated to make its system for protecting intellectual property rights (IPR), including enforcement, consistent with the WTO TRIPS agreement by December 10, 2003. Although considerable progress has been made over the past several years, with new regulations expanding legal protection to areas previously not covered, such as business secrets and new plant varieties, much remains to be done. New legislation this year included more detailed regulations on plant varieties and administration sanctions against counterfeits. The Government has instructed the Ministry of Science and Technology (MOST) and the Ministry of Culture and Information (MOCI) to draft a separate Law on Intellectual Property Rights, which is planned to submit to the National Assembly for approval in 2005.

Vietnam's laws offer some protection for foreign patent holders, but there are infringements. Potential investors should contact the U.S. Embassy in Hanoi or the

Consulate General in Ho Chi Minh City for the latest information regarding the ongoing changes to IPR protection in Vietnam. The National Office of Intellectual Property (NOIP), under Ministry of Science and Technology, administers Vietnam's patent and trademark registration system. The Vietnam Office of Literary and Artistic Copyright, under the control and supervision of the Ministry of Culture and Information, oversees artistic copyright. Significant progress has been made putting in place the laws protect copyrights including those belonging to foreigners but enforcement is almost non-existent. Since joining the Berne Convention, MOCI tightened copyright regulations on foreign musical and theatrical works. All organizers must obtain permission in writing from the copyright holders before performing their works.

Enforcement of IPR remains weak and violations of IPR are rampant. While Vietnam recently has conducted considerable administrative and law enforcement actions against IPR violations, IPR enforcement remains the exception rather than the rule. For some types of products, such as PC software, music and video CDs, VCDs and DVDs, as well as brand trademark violations, such as logos on t-shirts and other consumer items, IPR enforcement is virtually non-existent. Industry estimates of piracy rates for software, music and video, run as high as 99 percent. Local police authorities often are slow to act on administrative orders finding infringement and court decisions. Violators sometimes negotiate with plaintiffs, demanding payoffs to stop producing pirated material. However, there is the beginning of some progress with increased awareness of the need for effective IPR enforcement to foster investment, both foreign and domestic, in sectors such as software development and the arts. In addition, Vietnamese authorities are becoming increasingly concerned that the proliferation of pirated products also undermines their ability to prevent the distribution of pornography and other illegal content.

#### Transparency of Regulatory System

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As Vietnam undergoes a transition to a more market-oriented economy, the legal system changes frequently, and at times, significantly. Vietnamese officials have limited experience drafting legislation, and new laws and regulations sometimes are contradictory or unclear. Not all officials, especially those at the provincial and local levels, are fully up-to-date on all the new laws and regulations that affect their area of responsibility. Nor are all laws and regulations readily available to business and the public. Different officials, sometimes within the same agency, may interpret laws differently. There is a shortage of practicing lawyers, law school graduate judges, and law professors. Substantial foreign assistance is being devoted to assist Vietnam to establish a legal structure compatible with international standards.

Although the Vietnamese government has begun to streamline and rationalize the investment licensing process over the past year, MPI and other national, provincial, and local government agencies retain a great deal of discretionary authority. U.S. and other investors frequently encounter the need for further negotiation and administrative processes after the licensing process has been completed. A general lack of transparency in law and regulation make it difficult not only to exercise rights, but even to be aware of what rules apply to an investment. In recent years, Vietnam has improved its process for making and publicizing laws, but beyond major national laws and regulations, much rule-making affecting foreign investors still occurs at the ministerial, sub-ministerial and local levels, without any regular process for public notification and

little possibility for advance warning of changes in rules or for public input during the rule-making process. In 2002 the GVN amended the Law on the Promulgation of Legal Normative Documents to require that all legal documents and agreements to international conventions be published in the Official Gazette. As of July 2003, the Official Gazette has been published on a daily basis. The number of laws and regulations published in the Official Gazette each year has increased from just 4,200 in 2002 to 16, 510 in 2004.

Under the BTA, Vietnam is obligated to publish promptly all existing and future laws, regulations and administrative procedures which might affect any matter covered under the agreement including investment and trade in goods and services. The BTA further commits Vietnam to enforce only laws, regulations or administrative practices that have been so published and to publicize such laws sufficiently in advance of their effectiveness to ensure U.S. investors have adequate time to adjust their operations accordingly. Vietnam has committed to provide a process by which the U.S. Government and U.S. nationals have the ability to provide their views to the GVN on any such laws, regulations or administrative practices while they are still being formulated. Finally, U.S. nationals have the right to appeal administrative action relating to matters relating to the agreement. In December 2002, the National Assembly passed the "Law on Legal Normative Documents". Although this Law meets some of its BTA commitments, the GVN is not yet in full compliance with these obligations, in particular regarding prior notice and consultation on proposed regulatory and legal changes.

#### Efficient Capital Markets and Portfolio Investment

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Vietnam's financial system is in the early stages of reform and is not yet an efficient allocator of financial resources. At least 50 percent of personal savings are held as cash, gold, or other assets outside the banking system. However, as part of its World Bank/IMF program, the GVN adopted a comprehensive banking reform program that relies on market-based action which is intended to ensure the stability of the banking system, and in the medium-to-long term, promote better mobilization of domestic resources by improving allocation of those resources to commercially viable activities, and expand banking services throughout Vietnam. Raising capital for development is one of Vietnam's main economic priorities.

Foreign investors generally meet their foreign currency credit needs offshore or with foreign bank branches, although availability of foreign currency to convert dong assets to cover dollar liabilities can be, at times, uncertain. Foreign banks are severely limited in their right to take dong deposits and frequently encounter difficulties meeting customer's dong cash and credit needs. However, under the BTA, U.S. banks now enjoy a more liberal policy on dong deposits. In response to strong lobbying from non-US foreign banks to get the same treatment as US banks, in April 2004 the State Bank of Vietnam issued Decision 327 raising the ratio of dong deposit for foreign banks coming from the European Union, giving them the same competitive edge as US banks. This ratio, however, does not change for other non- European Union or non-US foreign banks. The State Bank and the Ministry of Finance have conducted sales of state bonds denominated in local currency, but Vietnam only has an informal secondary market for such instruments.

The banking industry in Vietnam is characterized by its small size in terms of deposits and loans and by the relatively large number of banks, both foreign and domestic. However, four state-owned commercial banks (SOCB) – the Vietnam Bank of Foreign Trade (Vietcombank), the Vietnam Industrial and Commercial Bank (Incombank), the Bank for Agriculture and Rural Development, and the Vietnam Investment Bank – still dominate domestic banking activity, providing an estimated 75 percent of all lending. Most SOCBs and joint stock banks (i.e., private sector banks with numerous shareholders) are under-capitalized, particularly when non-performing loans are taken into account. State-directed lending under non-commercial criteria also weakens banks in Vietnam. Furthermore, banks in Vietnam, including the four state-owned banks, hold a large number of non-performing loans, mainly to SOEs. As transparent auditing and financial reporting is problematic, it is difficult to know the exact proportion of non-performing loans. Sources vary widely, with estimates of bad loans ranging from four percent to 30 percent.

In 1997, the government introduced a new accounting standard, the ‘Vietnamese accounting system.’ The Ministry of Finance continues to refine and amend this standard to bring it into consistency with international accounting standards. After a multi-year grace period, foreign banks and companies are now required to comply fully with its parameters. A number of major international accounting firms have opened offices in Vietnam and, unlike foreign law firms (which are subjected to restrictions including advising clients on Vietnamese law and hiring Vietnamese lawyers), can provide advice on accounting and business issues directly to foreign clients in Vietnam. Nonetheless, a continued lack of financial transparency and compliance with internationally accepted standards among Vietnamese firms continues to pose problems for the government's plan to expand stock and securities markets to raise capital internally.

Despite these challenges and after years of discussion and planning, Vietnam opened a stock market in July 2000. A total of 25 joint stock companies, primarily former SOE's now under a restructuring/equitisation program, have listed on the exchange. None of them play major roles in the economy. Under current market regulations, share prices of a listed company cannot increase or decrease by more than five percent per trading session. To date, with its small trading volume, and restrictive rules on both listing and investor participation, the nascent market has yet to become a real source for financing or intermediation.

Formerly, foreign organizations and individuals could only hold a maximum of 30 percent of total shares issued by a listed company. As part of its efforts to encourage foreign investment and to promote the development of the infant stock market, the Government issued Decision 146 in July 2003 abolishing the equity limit of a single foreign investor (institutional or individual) in a listed Vietnamese company. MPI maintains a list of sectors and business lines in which foreigners may purchase shares in Vietnamese private enterprises in an effort to encourage private domestic enterprises to list and foreign investors to buy shares. In April 2002, the latest version of this list was issued. It includes selected commercial activities in five broad areas: agriculture, forestry and aquaculture; industry and processing; hotels and restaurants; transport, warehousing and communications; and science, technology, health care and education.

In March 2003, the Government issued Decision 36/QD-BKH revising the regulations on foreign shareholding in Vietnamese companies, which are not listed on the Vietnam

stock market. The new Decision governs purchase of shares and capital contributions by the following foreign investors:

- Foreign economic and financial organizations established pursuant to foreign law and conducting business overseas or in Vietnam;
- Non-resident foreigners in Vietnam;
- Foreigners who reside, earn their living and live long-term in Vietnam;
- Overseas Vietnamese

An important reform is that Prime Minister's approval is no longer required for the sale of shares to foreign investors. However the maximum level of capital contribution and purchase of shares by any one or more foreign investor in Vietnamese companies is still capped at 30 percent of the charter capital of the Vietnamese companies. The Ministry of Finance recently has been assigned by the Government to review and revise this restriction toward raising the 30% cap on foreign equity in Vietnamese companies.

A handful of regional and Vietnam-specific investment funds were set up to invest in Vietnam following the lifting of the U.S. trade embargo in 1994, but their results have mostly been poor. After promising beginnings in 1995, by 1998 shares in some of the funds were trading at an average discount of nearly 50 percent, and some were forced significantly to write down the value of their portfolios, while most failed to fully invest the funds raised for Vietnam due to a dearth of attractive opportunities. The continuing lack of a developed stock market means such funds do not have access to portfolio investment and must seek out private equity opportunities.

## Political Violence

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Vietnam is undertaking an ambitious course of transition both domestically and internationally, but remains essentially stable under the continued leadership of the Communist Party of Vietnam (CPV). As the country proceeds with its transition from a centrally-directed economy to a more genuinely market-based economy, a process which began in the late 1980's, the GVN and the CPV have, at the same time, reduced official interference in private lives of citizens and have permitted a broad expansion of personal liberties. But the GVN remains a one-Party state that brooks no overt criticism of the GVN or CPV and continues to restrict freedoms of religion, speech, assembly, and press, while denying true choice of political system or leaders. There are no signs of active opposition to the GVN or CPV, however, and most Vietnamese appear satisfied with the economic and social improvements of the last 16 years. There have nonetheless been isolated protests, such as large demonstrations by ethnic minorities in the Central Highlands in 2004 and smaller gatherings at the semi-annual meetings of the National Assembly by a variety of disaffected individuals.

## Corruption

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U.S. and other foreign firms as well as domestic private sector firms, have identified corruption in Vietnam in all phases of business operations as an obstacle to their business activities. In 2004, Vietnam scored a 2.6 out of a possible high score of 10 points on Transparency International's Corruption Perception Index. This placed

Vietnam's rank at 102 out of 146 countries, behind neighbors Malaysia and Thailand but above Indonesia. In large part due to a lack of transparency, accountability, and media freedom, widespread official corruption and inefficient bureaucracy remain serious problems that even the CPV and GVN admit they must address squarely and soon. Competition among government agencies for control over business and investments has created confused overlapping of jurisdictions and bureaucratic procedures and approvals that in turn create opportunities for corruption. Low pay for government officials and woefully inadequate systems for holding officials accountable for their actions compound the problems. Implementation the GVN's Public Administration Reform, developed in with the assistance of the World Bank, and the country's obligations under the transparency provisions of the BTA promise some improvement in the situation. But it appears unlikely that they will be successful in this effort to eliminate corruption the near term.

#### Bilateral Investment Agreements

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Vietnam has 46 bilateral investment agreements with the following countries and territories: Algeria, Argentina, Armenia, Australia, Austria, Belarus, Belgium and Luxembourg, Bulgaria, Burma, Chile, China, Cuba, Czech Republic, Cambodia, Denmark, Egypt, Finland, France, Germany, Hungary, Iceland, India, Indonesia, Italy, Japan, Laos, Latvia, Lithuania, Malaysia, Mongolia, Netherlands, North Korea, Philippines, Poland, Romania, Russia, Singapore, South Korea, Sweden, Switzerland, Taiwan, Tajikistan, Thailand, Ukraine, United Kingdom, and Uzbekistan. Vietnam has not concluded a Bilateral Investment Treaty (BIT) with the U.S., but the BTA contains an investment chapter which closely resembles U.S. BITs and contains most of the principal obligations common to such agreements. Vietnam also does not have bilateral taxation treaty with the U.S.

#### OPIC and Other Investment Insurance Programs

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In March 19, 1998, OPIC signed a new bilateral agreement with Vietnam, providing protections and guaranties necessary for OPIC to operate in Vietnam for the first time in more than twenty years. Subsequently, on November 19, 2000, President Clinton delivered remarks to the Vietnamese business community. At the core of his remarks was the announcement that OPIC was creating a special US \$ 200 million line of credit to support private sector projects in Vietnam. As of December 2004, OPIC had signed one active insurance contract and one lending contract in Vietnam. OPIC is reviewing several applications to support other potential projects.

Vietnam joined the Multilateral Investment Guarantee Agency (MIGA) in 1995.

#### Labor

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One of Vietnam's principal attractions for foreign investors has been its large, relatively well-educated (the GVN reports a literacy rate of over 90 percent) and inexpensive labor force. Now estimated at 43 million, the labor pool continues to increase by 1-1.5 million workers annually due to the post-war population explosion.

Despite its attractions, labor in Vietnam poses some problems for foreign investors. There is a shortage of managerial talent and skilled workers, resulting in higher salaries for those employees. Another factor raising the cost of skilled and managerial workers is Vietnam's sharply progressive personal income tax system that results in labor costs 2-3 times higher than in other Asian countries for relatively high-paid local staff. In March 2004 the Standing Committee of the National Assembly promulgated Ordinance 14 on Amendments to the Ordinance on Income Tax of High Income Earners. Under this legislation, the tax burden on Vietnamese employees was reduced effective 1 July 2004. Key changes included the broadening of tax brackets and removal of the top marginal income tax rate of 50 percent.

Under two 1999 directives, foreign organizations, including FIEs, must recruit and hire staff through state-owned employment bureaus, a requirement many investors find onerous. Under amendments to the Labor Law that entered into force on January 1, 2003, FIEs and foreign business cooperation parties are now allowed to directly recruit Vietnamese workers and foreigners. However, the requirement to use such employment service agencies will continue to apply to branches and representative offices of foreign companies, foreign non-governmental organizations and foreign diplomatic missions.

Employers are required by law to establish labor unions within six months of establishment of the company. All labor unions must be members of the Vietnam General Confederation of Labor, an organization under the Communist Party-affiliated Fatherland Front. There were 96 labor strikes in 2004, according to latest statistics. Strikes took place in SOEs, FIEs, and domestic private companies, with the majority occurring at FIEs. There were no known strikes at U.S.-invested companies. Most of the strikes involved labor-management disputes over health, safety, or other working conditions, work hours, or late payment of wages, and were settled quickly.

Vietnam is a member of the International Labor Organization (ILO). As of May 2003, it had ratified three of the eight core labor conventions: 100 (Equal Remuneration); 111 (Non-discrimination in Employment); and 182 (Worst Forms of Child Labor). Vietnam ratified the first two conventions on October 7, 1997 and the last on December 19, 2000. Vietnam has not ratified ILO Conventions on freedom of association, protection of the right to organize and collective bargaining. However, under the Declaration on Fundamental Principles and Rights to Work, all ILO members, including Vietnam, have pledged to respect and promote all the core ILO labor standards, including those on association, right to organize and collective bargaining. A number of technical assistance projects in the field of labor sponsored by foreign donors are underway in Vietnam, including work by the ILO supported by the U.S. Department of Labor. Vietnam intends to ratify Conventions 29 and 105 on forced labor in 2005.

#### Foreign-Trade Zones/Free Ports

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Companies may choose to produce within an export-processing zone (EPZ) to take advantage of exemptions from customs duties for equipment, raw materials, and commodities imported into the zones, and for finished goods and products exported from the zones, subject to specific provisions regulating EPZs. All of the production within an EPZ must be exported. Industrial zones (IZs) have been developed to offer tax advantages for establishing factories within the zones. Companies can produce within

an IZ for the domestic market or for export. The companies pay no duties when importing raw materials, if the end products are exported.

From the establishment of its first EPZ in 1991 through December 2004, Vietnam established a total of 112 IZs and EPZs. As of December 2004, there were 1,542 foreign invested enterprises licensed in the zones with a total registered capital of \$13.4 billion, of which over \$7.4 billion has been implemented. Many foreign investors commented that it is faster and more convenient to implement their projects in the industrial zones than outside the zones as the land use is already planned and they do not have to be involved in site clearance, compensation works and the construction of necessary infrastructure, which are time consuming and sometimes difficult. Foreign investment in the industrial zones currently concentrates on light industry projects, such as food processing and textile and garments. The number of heavy industry projects is still modest.

The operation of customs warehouses was approved in 1994. There are bonded warehouses in Can Tho, Hai Phong, Ho Chi Minh City, Hanoi, Quang Ninh, Binh Duong, Dong Nai, An Giang and Vung Tau. Entities permitted to lease customs bonded warehouses are foreign enterprises, individuals, and overseas Vietnamese; Vietnamese import-export license companies; and FIEs licensed to perform import-export activities. Most goods pending import and domestic goods pending export can be deposited in bonded warehouses under the supervision of the provincial customs office. Exceptions include goods prohibited from import or export, Vietnamese-made goods with fraudulent trademarks or labels, goods of unknown origin, and goods dangerous or harmful to the public or environment. The lease contract must be registered with the customs bond unit at least 24 hours prior to the arrival of goods at the port. Documents required are a notarized copy of authorization of the holder to receive the goods, a notarized copy of the warehouse lease contract, the bill of lading, a certificate of origin, a packing list, and customs declaration forms. Owners of the goods pay import or export tax when the goods are removed from the bonded warehouse.

Customs warehouse keepers can provide transportation services and act as distributors for the goods deposited. Additional services relating to customs declaration, appraisal, insurance, reprocessing or packaging require the approval of the provincial customs office. In practice the level of service needs improvement. The time involved for clearance and delivery can be lengthy and unpredictable.

## Foreign Direct Investment Statistics

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Year	Avg. capital per project (million US\$)	Number of projects	Licensed capital (billion US\$)	Implemented capital (billion US\$)
1992	10.5	193	2.027	0.478
1993	9.5	272	2.588	0.871
1994	10.3	362	3.746	1.936
1995	16.4	404	6.607	2.363
1996	23.5	367	8.640	2.923
1997	14.0	333	4.659	3.137
1998	15.0	260	3.897	2.364
1999	5.2	298	1.568	2.179
2000	5.8	344	2.014	2.228
2001	5.3	461	2.521	2.300
2002	1.97	697	1.376	N/A
2003	2.55	752	1.914	2.685
2004	3.07	723	2.222	2.900

Note: Authorities have been steadily adjusting the final figures for investment inflows for recent years upwards. It is not clear whether these adjustments reflect additional information that has become available to investment authorities or if they reflect an attempt to make the investment downturn in the wake of the Asian financial crisis appear less severe.

The licensed capital statistics for 1997 and 1998 may be overstated. A Singapore-invested resort complex in 1997 worth \$700 million is unlikely to be completed in the foreseeable future, and the Russian partner has recently pulled out of a joint venture petroleum refinery project licensed in 1998 worth \$1.3 billion. Absent these projects, the decline in newly licensed FDI after 1996 would appear to have been even sharper.

Cumulative FDI (as of 12/27/2004):

- Licensed projects: 5,109 (\$45.766 billion)
- Disbursed capital: \$26.773 billion (58 percent of licensed capital)

Note: GVN authorities routinely revise or revoke investment licenses that have not been utilized and other investment licenses contain automatic expiration clauses that take effect if a project or certain phases of a project are not implemented by a certain date. Statistics on the number of licensed projects and the value of licensed projects are then adjusted accordingly.

Foreign direct investment in selected sectors (Cumulative, as of 12/27/2004):

Sector	Number of projects	Licensed capital (billion US\$)	Implemented capital (billion US\$)
1. General Industry	3,103	20.85	11.99
2. Oil & gas	27	1.90	4.43
3. Construction	293	3.88	2.04
4. Real estate development	104	3.64	1.61
5. Hotels & Tourism	166	3.61	2.20
6. Trans./Comm.	143	2.57	0.92
7. Agriculture & forestry	591	3.13	1.55
8. Fisheries	105	0.29	0.15
9. Finance & banking	56	0.74	0.63
10. Culture, Health & Edu.	179	0.67	0.34

Foreign direct investment by country (Jan to Dec 27, 2004):

Country	Number of projects	Licensed capital (million US\$)
1. Taiwan	156	453
2. South Korea	159	340
3. Japan	61	224
4. Hong Kong	38	198
5. British Virgin Islands	25	177
6. Canada	12	155
7. Singapore	47	124
8. Malaysia	26	84
9. China	67	79
10. United States	30	75

Foreign Direct Investment by country:  
(Cumulative, as of 12/27/2004)

Country	Number of projects	Licensed capital (billion US\$)	Implemented capital (billion US\$)
1. Singapore	334	7.98	3.38
2. Taiwan	1,259	7.26	3.15
3. Japan	490	5.39	4.25
4. South Korea	840	4.75	2.89
5. Hong Kong	326	3.23	1.94
6. Brit.Virg.Isl.	212	2.43	1.14
7. France	142	2.15	1.06
8. Netherlands	53	1.84	1.97
9. Thailand	116	1.38	0.76
10. Malaysia	163	1.32	0.81
11. United States	215	1.28	0.73
12. United Kingdom	62	1.22	0.60
13. Switzerland	28	0.66	0.52

There is little data available on Vietnam's direct investment abroad. According to the Ministry of Planning and Investment, as of December 2004, Vietnamese businesses had invested in 113 projects worth about \$226 million in Russia, Singapore, Laos, Japan, Hong Kong, Cambodia, Tajikistan, the Middle East, the United States, Uzbekistan, and Taiwan. These investments were concentrated in the following sectors: transport, communications, construction, food processing, oil and gas, hotel, restaurant, and agriculture sectors. Vietnamese businesses have two investment projects worth \$260,000 in the United States. One Vietnamese government-owned telecommunications firm established an office in California. There are no Vietnamese government regulations on investment overseas.

Note: Statistics, including those on investment, are often difficult to come by and are generally based on definitions that differ from internationally accepted standards. Those published in government statistical surveys are generally incomplete and often inconsistent from publication to publication and over time. It is the policy of the Ministry of Planning and Investment to respond only to written requests for statistics or information on how they are compiled and calculated, a process that is cumbersome and very time consuming. Additional statistical data is often released in the local press but is difficult to confirm and update year-to-year, because it is not also provided in a database, which is readily available to the public.

Web Resources

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Vietnam Investment Review: Weekly Business Newspaper  
<http://www.vir.com.vn/Client/VIR/Default.asp>

Ministry of Planning and Investment: <http://www.mpi.gov.vn/default.aspx?Lang=2>

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## Chapter 7: Trade and Project Financing

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### How Do I Get Paid (Methods of Payment)

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The majority of U.S. firms exporting to Vietnam conduct business on a documentary basis and use various methods of payment, such as L/C's, drafts and wire transfers. All foreign businesses dealing with Vietnam should insist on using confirmed, irrevocable L/C's when initiating relationships with new importers and distributors. Vietnamese companies often will resist the use of confirmed L/C's, because of the additional cost and collateral requirements required by Vietnamese banks.

Some local companies with acceptable credit risk (mainly State-Owned Enterprises) have been able to obtain credit facilities, including import finance from foreign banks. For these importers, confirmation of L/Cs opened by their foreign bank may not be required and faster payment could be expected.

In the past, most Vietnamese companies have requested deferred payment L/Cs, with extensions of up to 360 and even 540 days. Most lenders have stopped this practice until the banking system's liquidity status improves. At present, sight L/Cs and L/Cs up to 180 days are most common.

U.S. exporters should make sure that Vietnamese banks opening L/Cs are located in Hanoi or Ho Chi Minh City. Many exporters have found a general lack of expertise in dealing with L/Cs at Vietnamese bank branches situated outside of these principal commercial centers. Care should also be taken as to which bank will open the L/C. Foreign banks have greater capacity, but costs will be lower if the L/C is opened by one of the four state-owned banks. Costs will be higher if a foreign bank confirms the L/C, but L/C confirmation will shift risk from the Vietnamese bank and account party to a foreign bank, which can be a high quality risk. After establishing a commercial relationship with and the financial credibility of a local importer, U.S. exporters have offered goods against less restrictive forms of payment, including consignment, but this can be risky.

For assurance L/C, a government regulation now requires Vietnamese companies to deposit 80 percent of the L/C value prior to its opening at the bank. This regulation applies to all non-essential goods and can affect the ability of the Vietnamese to enter into an import transaction, since many companies are working with constrained capital. Furthermore, recent regulations prohibit deferred L/C's with terms extended to greater than 360 days.

Vietnam is making progress in developing the basic infrastructure to support a modern banking system and financial markets. Recent projects to modernize the inter-bank market, create an international accounting system, and allow outside audits of major Vietnamese banks are encouraging. However, the banking system continues to suffer from a lack of consumer confidence, inexperience in capital markets and the slow pace of institutional reform.

The central bank, the State Bank of Vietnam (SBV) was broken up in 1988 with the State Bank assuming the enhanced regulatory role and commercial activities being shifted to other institutions. SBV now supervises four state-owned commercial banks (SOCBs), and a number of joint-stock (private) banks, joint-venture banks, representative offices of foreign banks, and branches of foreign banks. A handful of the foreign banks have branches in both Hanoi and Ho Chi Minh City.

The four state-owned banks dominate domestic banking activity. They are the Bank of Foreign Trade (Vietcombank) which is the de-facto import-export and trade-financing bank. The Vietnam Industrial and Commercial Bank (Vietincombank) which is the primary financier for industrial development. The Vietnam Bank for Agriculture and Rural Development (BARD) which finances agriculture and commodities. The Vietnam Bank for Investment and Development (BIDV) which is the infrastructure bank.

In addition to the four state-owned banks, foreign banks recognize three joint-stock banks as viable partners. They are the Asian Commercial Bank (ACB), the Maritime Bank and the Export-Import Bank.

The opening of Vietnam's economy has placed new demands on a financial sector that until the early 1990s operated largely in isolation from international standards and practices. The Vietnamese banking system continues to experience credibility problems in the international financial community. Its banks are poorly managed, not subject to standards laid out in the Basel capital accords, not audited by international caliber auditing firms (and if they are the results are state secrets), do not hold to international accounting standards and are overexposed to the state sector.

However, this situation is slowly changing. In 2001, the Vietnamese government adopted a more market-oriented banking and state enterprise reform program. The goals of this reform program, supported by the International Monetary Fund, the World Bank, and other international donors, including the United States, is to ensure the stability of the banking system, to expand banking services, and to rationalize domestic resource allocation by ensuring those resources are dedicated to commercially viable activities. The reform program focuses on three main areas – the restructuring of joint stock banks, the restructuring and commercialization of the state-owned banks, and improving the regulatory framework and enhancing transparency.

The State Bank of Vietnam acts as the supervisory and regulatory body for the banking sector. As part of the reform effort, and in response to new responsibilities created by the U.S.- Vietnam Bilateral Trade Agreement, the State Bank of Vietnam is in the process of strengthening its own internal processes and enhancing the level of inspection and supervision of the banks within its jurisdiction. However, the SBV is not an independent body like the United States Federal Reserve, and it continues to operate

under government guidance. In some key areas of operation, such as the provision of liquidity support, the management of foreign currency reserves, and issuance of banking licenses, SBV's actions are subject to prime ministerial approval.

Deposit Insurance in Vietnam was instituted in 2000 and is governed by SBV Decree No. 89/1999/ND-CP dated September 1st, 1999, and SBV Circular No. 03/2000/TT-NH5 dated March 16th, 2000. Under these guidelines a bank must purchase deposit insurance from the Deposit Insurance Corp. of Vietnam for all Dong deposits placed by individual depositors. The bank must pay an annual premium equivalent to 0.15 percent of average balances of all dong deposits of individual account holders and this premium is payable in four installments. The maximum insured amount is VND 30 million per account/individual per bank.

The effectiveness of deposit insurance has not been tested since the Deposit Insurance Corp. is recently established and no bank has failed since the inception of the insurance. This, coupled with the question of whether local banks are actually paying the insurance premiums, makes the effectiveness and solvency of deposit insurance an unknown.

Vietnamese banks do not have Bank for International Settlement (BIS) tier ratings. Vietnam has not adopted the Basel capital accord so details of risk-adjusted assets and calculation of risk-adjusted capital ratios are not calculated or disclosed.

In theory, banks are encouraged to adopt prudent banking and business practices. Regulatory provisions exist requiring them to establish controlling committees and internal audit functions to ensure legal and procedural compliance. In practice, however, because of the cozy relationship between the SOCBs and the government, prudent banking and business practices are not always adhered to. In addition, this process has just begun so most SOCBs are not adequately staffed to carry out these internal audit functions.

International donors, including the United States, funded the first financial audits of the four large SOCBs using International Accounting Standards in 2001 and 2002. In addition, the State Bank of Vietnam has issued a number of new guidelines for the operation of the state-owned banks, including specific targets and guidelines which must be met in order to receive phased re-capitalization funds.

In Vietnam, bank financial statements are not in compliance with International standards because Vietnam does not use international generally accepted accounting principals. The Vietnamese Accounting System is a hybrid of the centrally planned old Soviet-Union system (cash basis) and an international accounting system (accrual basis). With the exception of the donor-sponsored audits noted above, the financial statements of state-owned commercial banks (SOCBs) are not audited by independent auditors but rather by the State.

Vietnam is trying hard to wean the role of the SOCBs as instruments of public policy, and change the process by which financial resources are harnessed and allocated. Although there are no mandated policy-lending objectives in Vietnam, bank lending historically has been influenced by socially and politically oriented objectives rather than commercial considerations. In practice, socially oriented lending is quite pervasive, and adopting more prudent lending standards will take some time.

The four SOCBs account for three-fourths of the credit market in Vietnam. For these banks, state-owned enterprises remain the main recipients of bank credit, typically borrowing on an unsecured basis at concessionary interest rates.

The true level of non-performing and under-performing loans is difficult to gauge, as there is a very low level of transparency and disclosure in Vietnam. Secrecy laws cover much of the banking industry's data and meaningful information on the sector as a whole and on individual financial institutions has typically not been available. As part of the banking reform effort, new rules for the classification of non-performing loans which conform to international standards were issued in 2001.

Prior to 1999, loans were not, by convention, classified as impaired until they were over due by at least 360 days, and even then, asset quality measures disclosed by banks were based on only the overdue installments, rather than total principal. Since 1999, banks have been required to classify their credit assets according to four categories: loans that are performing satisfactorily and that have not yet fallen due; fully secured loans overdue up to 180 days and unsecured loans past due 90 days; secured loans, which are overdue from 180 days to 360 days; and, secured loans, which are past due 360 days or unsecured loans past due 180 days. As of 2002, banking regulations were brought closer to international accounting norms by allowing banks to classify the entire loan as overdue when an installment payment is missed. Banks were also permitted to accelerate the terms of the loan and were given more discretion in setting interest rates on overdue debt.

Officially, overdue loans in the banking system were about 12-14 percent of total assets in mid-1999, although the basis of the calculation is unclear. A recent report by the IMF stated that, based on audits undertaken in 1997 that adhered to internationally accepted standards, impaired loan ratios in the SOCBs ranged from 17 percent of total loans to as high as 50 percent. According to the IMF report, non-performing loans in the sector averaged about 30-35 percent. For the joint-stock commercial banks, most of which have been capitalized at a minimum of VND 70 billion or about \$5 million, the non-performing loans of these banks are widely believed to be significantly higher.

Over the last few years, there has been tremendous credit expansion by the SOCBs (20-30 percent increase) in order to pump up the economy. Many of the new loans are seen to be less commercially viable than the loans already in the SOCBs portfolios, prompting experts to be concerned that a large number of these loans will default.

Despite the relative weakness of Vietnamese banks, deposits have been increasing quite rapidly. But, having started from such a low base, they are still relatively small compared to GDP. Vietnam continues to operate largely as a cash economy with an estimated 45 percent of money as cash and over 50 percent of local business transactions conducted outside of the banking system. At present, there are only around 1.3 million individual bank accounts for a population of 82 million. Part of the issue for local banks is the matter of confidentiality. Many Vietnamese do not want the bank, the government and others to know the value of their assets. Another part of the difficulty in encouraging domestic savings, and therefore speeding the development of capital markets, is the managed interest rate, which does not reflect market rates.

Despite the official policy of designating the Vietnamese dong as the medium of exchange for all domestic transactions, the U.S. dollar remains an important parallel

currency. Estimates suggest that over \$2 billion is in circulation in the informal market. Some experts believe that an additional \$8-10 billion in hard currency and gold is being hoarded by private citizens. United States dollars are also the preferred currency for international trade, although the Vietnamese government has indicated it intends to move more aggressively to de-dollarize the economy.

#### Foreign-Exchange Controls

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The Foreign Exchange laws in Vietnam have undergone a number of changes in 2000 and 2001. The percentage of hard currency that local companies must surrender to the State Bank of Vietnam has been reduced and the long-term act of 'balancing' done by Foreign Invested Enterprises has been eliminated in favor of a similar currency surrendering scheme.

What this means is that the State Bank of Vietnam is trying hard to increase its reserve of hard currency so that it can allocate the currency to enterprises that need it. For foreign traders, that usually means the importer or end customer. In Vietnam the end-user is often a State-Owned Enterprise (SOE) that has little ability to raise hard currency and must depend on allocations by the State Bank of Vietnam (SBV) to cover offshore transactions. The hope among the government and SBV is that the new currency surrender rules will free up more hard currency for this type of transaction.

In general, it may be assumed that an enterprise may need to have 'rights' to access foreign currency. Moreover, even though the "right" to convert exists, there is no implied assurance of availability.

Conversion of Vietnamese Dong into hard currency no longer requires a foreign exchange approval, which previously had presented problems for foreign investors, particularly for businesses who did not fall into the three specified categories, which received government support on currency conversion. However, conversion of Vietnamese Dong into hard currency is still subject to availability. The requirement for all domestic and foreign invested companies to sell a certain portion of their foreign currency income was reduced from 80 percent (in 1998) to 50 percent (in 1999), 40 percent (in 2001), and now 30 percent (from May 2002).

It is worth noting that the State Bank of Vietnam has also shifted the control mechanism of foreign exchange from maintaining a fixed exchange rate and making ad-hoc adjustments when deemed necessary to allowing the exchange rate to move within a pre-determined band. This has brought the Vietnamese dong closer to its real value.

#### U.S. Banks and Local Correspondent Banks

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Following the lifting of the U.S. trade embargo in 1994, several U.S. banks established a presence in Vietnam. The Bank of America and Citibank have received branch licenses in Hanoi and, in January 1998 and March 1999, Citibank and Chase, respectively, were granted branch licenses, which would allow them to conduct full banking operations in Ho Chi Minh City. In February 2002, Bank of America closed down its operations and withdrew from Vietnam.

The following state-owned banks are the most active in terms of correspondent relationships with U.S. banks: Vietcombank, Vietincombank, the Bank for Agriculture and the Bank for Investment and Development. In addition, several joint-stock banks have correspondent relationships, such as the Asian Commercial Bank (ACB), Vietnam Export-Import Bank (EXIM Bank), the Maritime Bank, Saigon Commercial and Industrial Bank, and the Vietnam Commercial Joint-Stock Bank for Private Enterprise (VP Bank).

## Project Financing

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United States Government supported export financing, project financing, loan guarantee and insurance programs are available through the U.S. Export-Import Bank (EXIM Bank) and the Overseas Private Investment Corporation (OPIC) for transactions in Vietnam. The establishment of these two agencies' programs in Vietnam coupled with the activities of the Trade and Development Agency (TDA), which provides grants for feasibility studies and training for commercial projects being pursued by U.S. firms, has enhanced the competitiveness of American companies in Vietnam.

The Export-Import Bank (EXIM Bank) offers export financing of American products through loans and loan guarantees, as well as providing working capital guarantees and export credit insurance. EXIM Bank is one of the newest U.S. Government agencies in Vietnam, having only signed the Framework Guarantee Agreement (a necessary step to opening programs) with the State Bank of Vietnam on December 9, 1999. Information on EXIM Bank programs in Vietnam can be accessed at [www.exim.gov](http://www.exim.gov).

The Overseas Private Investment Corporation encourages private American business investment in emerging economies by providing project financing and political risk insurance, including against currency inconvertibility, expropriation, and political violence. OPIC has been in operation in Vietnam since the Jackson-Vanik Waiver of 1998 and has approved the first loan and insurance application. Information on OPIC programs in Vietnam can be accessed at [www.opic.gov](http://www.opic.gov).

In principle, state-owned banks could provide export financing to US firms operating in Vietnam, but in reality such financing is more likely to come from joint-stock banks or the branches of foreign banks in Hanoi or Ho Chi Minh City. Many foreign firms finance such exports internally.

When dealing with importers or financing originating in Vietnam, U.S. suppliers should request irrevocable letters of credit (L/C's). They should have one of their correspondent banks confirm the L/C's. Foreign banks tend to only deal with the four state-owned banks (Vietincombank, Vietcombank, BARD and BIDV) and three top-tier joint-stock banks (ACB, Maritime Bank and EXIM Bank) for trade financing.

American banks present in Vietnam include American Express Bank, Chase Manhattan Bank, and Citibank. Other U.S. banks operate out of operations centers in nearby countries. All of the American banks offer trade financing services to U.S. companies, with Chase Manhattan Bank and Citibank offering on-shore services as licensed branches, and American Express Bank offering off-shore services. Other large foreign banks operating in Vietnam include ABN Amro Bank, ANZ Bank, BFCE, Credit Lyonnais, HSBC, ING Bank, and Standard Chartered Bank. Though almost all foreign banks

concentrate on wholesale banking, some of these offer retail banking services and ATM and electronic on-line service mostly for the use of expatriates in Vietnam.

Bilateral government tied aid, commonly offered by the governments of our competitors, provide non-US companies with a comparative advantage that affects American trade performance in Vietnam. Sometimes these are actually soft loan programs designed to support a particular country's exporters. American firms, otherwise competitive on price and quality, sometimes lose contracts because they cannot compete with the low interest rates and/or soft repayment terms offered by the government of a competing company. The introduction of U.S. EXIM and OPIC has somewhat offset this advantage.

Project Financing: Vietnam secures a substantial portion of its development funding from Official Development Assistance (ODA), including the multilateral development banks (primarily the World Bank (WB) and Asian Development Bank (ADB), the Japanese Bank for International Cooperation (JBIC), and the United Nations Development Program (UNDP). American firms can participate in projects funded by these agencies.

The World Bank maintains a relatively large funding program for Vietnam. Projects focus on macro-economic policy, financing policies, and infrastructure projects in the power, energy, transportation and environmental sectors. Procurements for World Bank funded projects are conducted using competitive bidding procedures.

The Asian Development Bank (ADB) provides development funding for investment projects concentrating in power, transportation, fishing, agriculture, and the environment. Tenders are also conducted based on international bidding standards.

Both the World Bank, through the International Finance Corporation (IFC) and the ADB, through the Private Sector Group, offer both debt and equity for private sector projects in a wide variety of business sectors. Financing through these agencies can have long lead times (12 months or more), so U.S. firms need to apply early should they desire access to support for investment projects.

The Japanese Bank for International Cooperation (JBIC) is a merger of The Overseas Economic Cooperation Fund (OECF) and the Japanese Export Import Bank (JEXIM). JBIC is a general untied funding agency, which provides financing for infrastructure projects. American firms are eligible to compete for JBIC loan projects in accordance with procurement notices published by the recipient government or government related agencies. Opportunities can include prime contractor and sub-contractor roles. U.S. firms can also receive financing of up to 85 percent of an international trade transaction, if the sale contains at least 30 percent of Japanese goods.

The United Nations Development Program (UNDP) provides funding for industrial and agriculture development. UNDP in Vietnam is active across a broad front of industry and social sectors and sponsors numerous public sector, social, agricultural, and refugee assistance programs. Project tenders are conducted in the same manner as World Bank tenders.

In recent years, several domestic and international leasing companies have received licenses to conduct business in Vietnam. While the initial capitalization is small (\$ 5-10 million), these companies could play a significant role as alternative financiers in the

future, focused on the leasing of capital equipment. At present, their ability to transact business is limited because credit insurance for leasers is not available in Vietnam. The leaser must therefore carefully scrutinize potential clients. There are also certain legal constraints to the ownership of leased goods.

Availability of loan guarantees: A wide variety of bilateral and multilateral loan guarantee programs are available to U.S. companies from such organizations as the Export-Import Bank of the United States, the Overseas Private Insurance Corporation, the World Bank, and the Asian Development Bank.

Although Vietnamese banks (and their regulators) tend to have a strong preference for collateral, it may be possible for US firms to utilize parent company or third-party guarantees in seeking loans. That said, most foreign companies operating in Vietnam will not rely primarily on the local banking system for financing.

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Export-Import Bank of the United States: <http://www.exim.gov>

Country Limitation Schedule: [http://www.exim.gov/tools/country/country\\_limits.html](http://www.exim.gov/tools/country/country_limits.html)

OPIC: <http://www.opic.gov>

Trade and Development Agency: <http://www.tda.gov/>

SBA's Office of International Trade: <http://www.sba.gov/oit/>

USDA Commodity Credit Corporation: <http://www.fsa.usda.gov/ccg/default.htm>

U.S. Agency for International Development: <http://www.usaid.gov>

World Bank (WB): <http://www.worldbank.org/>

Asian Development Bank (ADB): <http://www.adb.org/>

United Nations Development Program (UNDP): <http://www.undp.org/>

International Monetary Fund (IMF): <http://www.imf.org/>

International Finance Corporation (IFC): <http://www.ifc.org/>

Mekong Private Sector Development Facility: <http://www.mpdf.org/index.jsp>

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## Chapter 8: Business Travel

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### Business Customs

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Background: Vietnam is a markedly Confucian society and its business practices are often more similar to those of China, Japan and Korea than to those of its Southeast Asian neighbors. The social dynamics and world-view of Vietnam's society are reflected in the business climate including such matters as: "face", consensus building, and the zero-sum game assumption.

"Face" is extremely important to many Vietnamese. It is very important to try not to put your Vietnamese counterparts in an embarrassing situation or one that calls for public back tracking. You should be careful not to cause your Vietnamese contact embarrassment in front of superiors, peers, or subordinates. Fear of losing face often makes Vietnamese wary of spontaneous give-and-take, unscripted public comment, or off-the-cuff negotiation. Tact, sensitivity, and discretion are considered the most effective approach in dealing with disagreements or uncomfortable situations. Westerners often view the idea of face as quaint, but to many Vietnamese it matters a great deal, and the loss of face by your contact could very well mean the loss of your contact.

Consensual decision making is very deeply ingrained in Vietnamese social and political behavior. "Consensus" means different things in different societies. In Vietnam, it often means that all parties with a voice can wield a veto and must be brought on board. In building a consensus, it may prove impossible to "steamroller" the minority opinion, which must be wooed instead. To take the Central Government as an example, the lead ministry on a given issue may be unable to advance its positions if other ministries with seemingly minor involvement in the decision oppose it. Unless the latter can be won over, the result is a stalemate.

Western businesspeople sometimes become frustrated with the apparent inability of the person across the table from them to make a decision (even if the counterpart is quite senior), or the fact that decisions once made are inexplicably reversed. This is indicative, not of the person's ability or willingness to work with foreign businesspeople, but of complexities behind the scenes and the fact that the apparent decision-maker does not always have the only say in negotiations.

American businesspeople typically assume that "win-win" deals are common and relatively easy to achieve. Few Vietnamese probably share that optimism. To most, business is a zero-sum game. There is a winner and a loser. This is important to keep in mind when dealing with a Vietnamese organization. It can define your relationship with your Vietnamese counterpart and your Vietnamese counterpart's relationship with the local market. Once a deal is struck in principle, Americans may want to get on with it, while Vietnamese may want to take more time to improve their terms (even if that means delaying the entire undertaking). Plan on taking more time than is expected and note that the larger the deal the longer and more complicated the process of negotiating.

Introductions: When initiating contact with a Vietnamese entity, it is often best to be introduced through a third party as people outside a person's known circle may be regarded with suspicion. An introduction from a mutual friend, acquaintance or known business associate before initial contact can help alleviate some of the problems that arise in initial correspondence or meetings.

If it is not possible to have a third party introduce you, self-introductions should start with an explanation of what led you to contact this particular organization. This will help the Vietnamese side understand how to relate to you.

Names: Vietnamese names begin with the family name, followed by the middle name and finally the given name. To distinguish individuals, Vietnamese address each other by their given names. Therefore, Mr. Nguyen Anh Quang would be addressed Mr. Quang. Pronouns are always used when addressing or speaking about someone. You should always address your contacts as Mr., Mrs., Ms. or Miss followed by the given name. Vietnamese often reciprocate this custom when addressing foreigners. Ms. Jane Doe would typically be addressed as Ms. Jane. If you are unsure how to address someone, just ask for advice.

Correspondence: Your first contact with a potential Vietnamese partner should be long on form and fairly short on substance. Effort should be spent on introducing yourself, your company and objectives in the Vietnamese market place. Relatively little emphasis should be placed on the specifics of your objectives. Your correspondence should end with pleasantries and an invitation to continue the dialogue.

If your business relationship continues through correspondence, you should continue to include introductory and closing pleasantries in your letters. Vietnamese are typically used to the formality of corresponding in Vietnamese and the abruptness of some Western business correspondence can make them uncomfortable.

Business Meetings: Establishing operations or making sales in Vietnam entails numerous business meetings, as face-to-face discussions are favored over telephone calls or letters. A first meeting tends to be formal and viewed as an introductory session. If you are unsure of exactly who in the organization you should be meeting with, you should address the request for a meeting to the top official/manager in the organization. It is helpful to submit a meeting agenda, issues to be discussed, marketing material, and/or technical information prior to the actual meeting. This will allow the Vietnamese side to share and review information within the organization in order to ensure the correct people participate in the meeting.

A meeting usually begins with the guest being led into a room where there may be a number of Vietnamese waiting. The Vietnamese principal is rarely in the room when the guests arrive and you will be left to make small talk with the other meeting participants until the principal makes his or her entrance. It is common for a third person (from either side) to introduce the two principals of the meeting. Once this is done and all participants have been introduced to each other and have exchanged name cards, participants can take a seat.

Seating for a meeting is generally 'us versus them' across a conference table with the principal interlocutors in the center and directly across from each other. Other participants are generally arranged in a hierarchy on the right and left. Generally, the farther one is from the center of the table, the less important one is. Sometimes the meeting will take place in a formal meeting room where there are chairs arranged in a 'U' pattern. The principals will take their seats in the two chairs at the base of the 'U' with other participants arranging themselves in rank order along the sides of the 'U'.

Meetings generally begin with the principal guest making introductory remarks. These remarks should include formal thanks for the hosts accepting the meeting, general objectives for the meeting, and an introduction of participants and pleasantries. This will be followed by formal remarks by the Vietnamese host. Once the formalities and pleasantries are dispensed with, substantive discussion can ensue. Even if the principal host is not heavily involved in the details of the conversation, guests should remember to address the principal in the conversation allowing him or her to delegate authority to answer.

A general business call lasts no more than one hour. Usually, the visitor is expected to initiate or signal the closure of the meeting.

Hiring a reliable interpreter is essential, as most business and official meetings are conducted in Vietnamese. Even with the increasing use of English, non-native English speakers will need interpretation to understand the subtleties of the conversation. When working with an interpreter, one should speak slowly and clearly in simple sentences and pause often for interpretation (generally at the end of a paragraph). One should brief the interpreter on each meeting in advance.

**Business Attire:** Normal business attire consists of a suit and tie for men and suit or dress for women. During the hotter months, formal dress for men is a shirt and tie. Open collar shirts and slacks may be worn to more informal meetings depending on the situation. The trend in the South is to be more casual; suit jackets are worn only on very formal occasions and first meetings.

Travel Advisory

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Petty crime, such as pick pocketing and purse snatching, has become increasingly prevalent in Hanoi and HCMC, particularly in major tourist areas and hotels. A good rule is to carry with you only what you can afford to lose, and leave the rest in the hotel safe deposit box or in-room safe.

Vietnamese internal security personnel may place foreign visitors under surveillance. The Vietnamese Government has seized passports and blocked the departure of

foreigners involved in commercial and legal disputes in Vietnam. As these issues are rapidly changing, specific questions may be directed to the Embassy of Vietnam, Washington D.C., or to the Office of American Citizens Services and Crisis Management, Department of State, Washington, DC 20520.

## Visa Requirements

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U.S. passports are valid for travel to Vietnam. Visas are required and relevant information may be obtained from the Embassy of Vietnam, 1233 20th Street, Suite 501, N.W., Washington, DC 20036 (telephone 202-861-0737, fax 202-861-0917) or the Vietnamese Consulate General, 1700 California Ave., Suite 475, San Francisco, CA 94109 (telephone 415-922-1577, fax: 415-922-1848). Vietnamese embassies in other countries or travel agents that organize travel to Vietnam can also issue or facilitate the issuance of a visa.

U.S. Companies that require travel of foreign businesspersons to the United States should allow sufficient time for visa issuance if required. Visa applicants should go to the following links.

State Department Visa Website: <http://travel.state.gov/visa/index.html>

United States Visas.gov: <http://www.unitedstatesvisas.gov/>

Consular section U.S. Embassy, Hanoi: <http://vietnam.usembassy.gov/wwwhcons.html>

Consular Section U.S. Consulate General, Ho Chi Minh City:  
<http://www.hochiminh.usconsulate.gov/wwwhcons.html>

## Telecommunications

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International Direct Dial (IDD) and fax services are available at post offices and most business standard hotels. Communication costs in Vietnam have declined significantly in recent years.

Internet services can be accessed through hotel business centers or from a growing number of Internet cafes. Internet services continue to experience cost reductions and quality improvements, although the reliability of the connections can vary depending upon location.

International Roaming for mobile telecommunications is available in Vietnam for users from many countries (usually those that share Vietnam's GSM standard).

## Transportation

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Travel within Vietnam is becoming easier with more domestic flights to the major cities. Air travel has also become cheaper as a result of the Government decision to eliminate the dual fare structure on Vietnam Airlines and other common carriers which charged higher fares to foreigners than to Vietnamese citizens. A round trip ticket between

HCMC and Hanoi is currently about \$190 for economy class and \$260 for business class. International departure tax is \$12.00. Vietnam Airlines (fax: 84-4-976-0220) and Pacific Airlines (fax: 84-4-733-2158) are the only carriers allowed to fly domestic routes.

Trains and buses in Vietnam have extensive routes and offer a cheap way to travel. However, you get what you pay for. Traveling by train or bus is recommended only to the most seasoned and hardy of travelers, as it is uncomfortable and (due to infrastructure and maintenance problems) dangerous.

In major cities, metered taxis are plentiful and relatively inexpensive, especially in HCMC where numerous taxi companies compete for passengers. A car with a driver is also an option in major cities and can be rented for between \$25 and \$100 per day. For destinations outside major cities a car and driver is the recommended means of transport. Cars can be booked through most major hotels or tour companies.

## Language

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Vietnamese is the official language. Use of English is becoming more common, especially in the larger cities and in the rapidly expanding tourism sector.

## Health

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Most local medical facilities do not meet western hygienic standards and may not have the full range of medicines and supplies available in typical U.S. facilities. However, there are several small foreign-owned and operated clinics in Hanoi and HCMC that are exceptions to this rule.

## Local Time, Business Hours, and Holidays

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Vietnam is twelve hours ahead of Eastern Standard Time and 11 hours ahead of Eastern Daylight Time. Vietnam consists of a single time zone.

During the weekdays, business hours are typically 8:00 a.m. to 5:00 p.m. with a one-hour lunch break. On Saturdays, work hours are from 8:00 a.m. to 11:30 a.m. Vietnamese Government offices have recently moved to a 5-day workweek and are no longer open on Saturdays.

During the lunar new year, falling in January or February, business and government active in Vietnam comes to a virtual standstill for the week-long Tet holidays. Business travel at this time is not advised.

## Temporary Entry of Materials and Personal Belongings

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Vietnam does not subscribe to the ATA Carnet system. There are no known regulations governing the temporary entry of laptop computers into Vietnam. That said, the authorities are always sensitive to the import and export of information, such as that on a

hard disk. Visitors are strongly advised not to have any information on their computers that the authorities of Vietnam might deem pornographic or politically sensitive.

If a computer is equipped with a modem (as most laptops are), it technically requires an import license as a telecommunications device from the Ministry of Trade. However, this regulation (which also should apply to mobile phones) is rarely, if ever, enforced. Encryption software must be licensed for import.

Exhibit materials and related items have generally been allowed to enter Vietnam temporarily without duty or restriction. However, recently some foreign exhibitors have encountered difficulties bringing high-tech equipment to Vietnam for trade shows. Technically, items brought into Vietnam temporarily for exhibition at trade shows require a special license from the Ministry of Trade. Exhibition organizers typically assist exhibitors in obtaining these licenses, so U.S. exhibitors should contact show organizers regarding this matter well in advance.

A related issue is that of bringing samples into Vietnam for display (but not sale) in a company's offices. A license offering duty exemption for such items may be obtained but only if the items in question are listed specifically in the firm's investment license.

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Embassy of Vietnam, Washington, D.C.: <http://www.vietnamembassy-usa.org/>

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## Chapter 9: Contacts, Market Research, and Trade Events

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#### Contacts

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Business travelers to Vietnam seeking appointments with U.S. Embassy Hanoi officials should contact the commercial section in advance.

The U.S. Commercial Service in Hanoi can be reached by telephone at: (844) 831-4650, fax at (844) 831-4540 or email at [Hanoi.Office.Box@mail.doc.gov](mailto:Hanoi.Office.Box@mail.doc.gov).

The U.S. Commercial Service in HCMC can be reached by telephone at: (848) 825-0490, fax at (848) 824-0491 or email at [Ho.Chi.Minh.City.Office.Box@mail.doc.gov](mailto:Ho.Chi.Minh.City.Office.Box@mail.doc.gov).

To view market research reports produced by the U.S. Commercial Service please go to the following website: <http://www.export.gov/marketresearch.html> and click on Country and Industry Market Reports.

Please note that these reports are only available to U.S. citizens and U.S. companies. Registration to the site is required, but is free of charge.

Please click on the link below for information on upcoming trade events.

<http://www.export.gov/tradeevents.html>

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## Chapter 10: Guide to Our Services

The U.S. Commercial Service offers customized solutions to help your business enter and succeed in markets worldwide. Our global network of trade specialists will work one-on-one with you through every step of the exporting process, helping you to:

- Target the best markets with our world-class research
- Promote your products and services to qualified buyers
- Meet the best distributors and agents for your products and services
- Overcome potential challenges or trade barriers

For more information on the services the U.S. Commercial Service offers U.S. businesses, please click on the link below.

<http://www.buyusa.gov/vietnam/vi/>

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U.S. exporters seeking general export information/assistance or country-specific commercial information should consult with their nearest **Export Assistance Center** or the **U.S. Department of Commerce's Trade Information Center** at (800) USA-TRADE, or go to the following website: <http://www.export.gov>

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